

**HANNUM, WAGLE & CLINE ENGINEERING**  
**3050 Poplar Street, Suite B**  
**Terre Haute, IN 47803**  
**(812) 234-2551**  
**(812) 234-9067 (fax)**

**AGREEMENT TO PROVIDE SERVICES**

This **AGREEMENT** is recognized as being established the \_\_\_\_ day of \_\_\_\_\_, 2011, by and between Hannum, Wagle & Cline Engineering, Inc., of Terre Haute, Indiana (hereinafter referred to as “HWC”) and the City of West Lafayette, Indiana (hereinafter referred to as “CLIENT”), concerning the following:

**The Project Name, Location, and Address are:**

Soldiers Home Lift Station  
West Lafayette, Indiana

**The CLIENT’s Name and Address is:**

City of West Lafayette  
609 West Navajo Street  
West Lafayette, IN 47906-1937

**The Project’s Designated CLIENT Representative and his/her contact information (including title, address, phone number, fax number, and e-mail address) are:**

Mr. David Henderson  
City of West Lafayette  
609 West Navajo Street  
West Lafayette, IN 47906-1937

**The Project’s Designated HWC Representative and his/her contact information (including title, address, phone number, fax number and e-mail address) are:**

Mr. Brian E. Pohlar, P.E.  
Hannum, Wagle & Cline Engineering, Inc.  
420 Main Street  
Lafayette, IN 47901  
765-742-9700  
765-742-9701 fax  
[bpohlar@hwcengineering.com](mailto:bpohlar@hwcengineering.com)

**The applicable HWC Project Number is: 2010-177**

## Definitions

As used herein, the following words and their derivative words or phrases have the meanings indicated, unless otherwise specified in the various sections of this Agreement.

**Agreement:** A contract duly executed and legally binding

**Certify, Certification:** HWC's opinion, based upon HWC's observation of conditions, knowledge, information, and beliefs. It is expressly understood that HWC's certification of a condition's existence relieves no other party of any responsibility or obligation he or she has accepted by agreement, contract, or custom.

**Estimate:** An opinion of probable construction cost made by HWC. The accuracy of a probable construction cost cannot be guaranteed.

**Inspect, Inspection:** The visual observation of construction to permit HWC to form an opinion as to whether the contractor is performing the Work in a manner indicating that, when completed, the Work will be in accordance with the Contract Documents. Such observations shall not be relied upon by any party from fulfillment of customary and contractual obligations.

**HWC:** is to mean Hannum, Wagle, and Cline Engineering, and any person(s) within its employ, legally authorized to represent the interests of HWC, including officers, design professionals, project representatives, and project managers.

**Project Designated Representative(s):** HWC and CLIENT shall designate specific individuals to act as HWC's and CLIENT's representatives with respect to the services to be performed or furnished by HWC and responsibilities of CLIENT under this Agreement. Such individuals shall have the authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party. HWC shall be entitled to rely on the CLIENT's Designated Representative as the single source for communication and to effect decisions on behalf of the CLIENT.

**CLIENT vs. Owner:** For the purposes of this Agreement, unless otherwise specified herein, it is to be assumed that the CLIENT is the Owner of the Project unless otherwise specified.

**Contractor:** is to mean the Contractor under contract, or to be under contract, with the CLIENT to provide construction services. Within the terms of this Agreement, HWC is not the contractor.

## Project Administration Services

HWC shall provide the Professional Services set forth herein and within the subsequent exhibits beginning on the date stated on page one or upon written notice to proceed by the CLIENT.

HWC shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. HWC shall serve as the CLIENT's prime professional for the Project.

## Laws, Codes, and Standards Compliance

HWC shall put forth reasonable professional efforts to comply with codes, regulations, covenants, and ordinances in effect as of the Effective Date of this Agreement. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to CLIENT's responsibilities or to HWC's scope of services, times of performance, or compensation.

### **Confidentiality**

To the full extent permissible under the law, the CLIENT and HWC shall maintain in confidence and not disclose to any person or entity, partnership, corporation or other business entity, all business documents and performance records, notes, information, data, material, report, product, or process associated with services provided under this Agreement, or any documentation marked CONFIDENTIAL by the CLIENT or HWC. These provisions shall not apply to information in whatever form that comes into the public domain, nor shall it restrict HWC from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for HWC or CLIENT to defend itself from any suit or claim.

Having received verbal and/or written permission from the CLIENT, HWC may use certain non-proprietary Project information within its marketing documents as deemed appropriate by the CLIENT and HWC.

HWC may be required to report on the past or current qualifications and/or performance of others engaged or being considered for engagement directly or indirectly by the CLIENT, and to render opinions and advice in that regard. Those about whom reports and opinions are rendered may as a consequence initiate claims of libel or slander against HWC. ~~To help create an atmosphere in which HWC feels free to express its experience and candid opinions in the interest of the CLIENT, the CLIENT agrees, to the fullest extent of the law, to indemnify and hold harmless HWC from any claim, liability or cost (including reasonable attorney's fees and costs of defense) for injury or loss arising or allegedly arising from the professional opinions and reports rendered by HWC to the CLIENT of the CLIENT's agents.~~

### **Certifications, Guarantees, and Warranties**

The standard of care for all professional engineering and related services performed or furnished by HWC under this Agreement will be the care and skill ordinarily used by members of HWC's profession practicing under similar circumstances at the same time in the same locality. HWC makes no warranties, express or implied, under this Agreement or otherwise, in connection with HWC's services.

HWC's opinions of probable Construction Cost provided herein are to be made on the basis of HWC's experience and qualifications and represent HWC's best judgment as an experienced and qualified professional generally familiar with the industry. However, since HWC has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, HWC cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by HWC.

HWC shall not be required to sign any documents, no matter by whom requested that would result in HWC having to certify, guarantee, or warrant the existence of conditions whose existence HWC cannot ascertain. The CLIENT also agrees not to make resolution of any dispute with HWC or payment of any amount due to HWC in any way contingent upon HWC's signing any such certification.

HWC shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in the sole judgment of HWC, increase HWC's contractual or legal obligations or risks, or the availability or cost of HWC's professional or general liability insurance.

### **CLIENT Responsibilities**

The CLIENT shall:

1. Provide full information as to his requirements for the Project
2. Assist HWC by placing at HWC's disposal all available information pertinent to the Project
3. Guarantee access to and make all provisions for HWC to enter public and private sites relative to the Project

4. Examine all data, reports, and other documents prepared or presented by HWC and shall render in writing decisions pertaining thereto so as not to delay the work of HWC
5. Provide such legal, accounting, and insurance counseling services as may be required for the Project
6. Obtain approval of governmental authorities having jurisdiction over the Project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the Project
7. Furnish, or direct HWC to provide at the CLIENT's expense, necessary additional services or other services as required
8. Advertise for proposals from bidders, open the proposals at the appointed time and place, and pay for costs incident thereto
9. Pay for permits, approvals, fees, and advertising of any legal notices. HWC shall assist the CLIENT in applying for or obtaining such items as typically required by law for projects similar to the one for which HWC's services are being engaged. Such assistance consists of completing and submitting forms as to the results of certain work included in the Scope of Services.

CLIENT shall be responsible for, and HWC may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by CLIENT to HWC pursuant to this Agreement. HWC may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

The CLIENT shall provide for HWC's right to enter the property owned by the CLIENT and/or others in order for HWC to fulfill the Scope of Services included hereunder. The CLIENT understands that the use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this Agreement. ~~The CLIENT agrees to the fullest extent permitted by law, to indemnify and hold HWC and HWC's subconsultants harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) for injury or loss arising or allegedly arising from procedures associated with testing or investigative activities or discovery of hazardous materials or suspected hazardous materials on said property.~~

CLIENT shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of HWC.

CLIENT shall not, throughout any pending project and for a period of one (1) year after final completion of all projects for which HWC has provided services, solicit, contact or communicate with any employee of HWC for the purpose of inducing such HWC employee to terminate his or her employment with HWC.

#### **Time and Schedule**

Unless specifically identified in this Agreement, HWC's services and compensation will be for a reasonable period of time for completion of the Project.

HWC acknowledges the importance to the CLIENT of the CLIENT's project schedule and agrees to put forth reasonable efforts in performing the services with due diligence under this Agreement in a manner consistent with that schedule, as provided in **Exhibit B** hereto. The CLIENT understands, however, that HWC's performance must be governed by sound professional practices.

If in this Agreement, specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of HWC, for reasons including but not limited to delay of state or municipal agencies in approvals or other governmental decisions regarding the Project, or delay in site or land acquisition, the

rates and amounts of compensation provided herein shall be subject to equitable adjustment. If CLIENT has requested changes in the scope, extent, or character of the Project, the rates and amounts of compensation, and time of performance of HWC's services shall be adjusted equitably.

If the Project is suspended for more than thirty (30) calendar days in the aggregate, through no fault of HWC, and/or in whole or in part by CLIENT, HWC shall be compensated for services performed and charges incurred prior to receipt of notice to suspend, and, upon resumption, an equitable adjustment in fees to accommodate the resulting demobilization and remobilization costs.

In the event of such suspension, or if HWC's services are extended by Contractor's actions or inactions for more than sixty (60) calendar days beyond the original scheduled completion date through no fault of HWC, there shall be an equitable adjustment in the Project schedule based on the delay caused by the suspension or the Contractor.

In the event the Project is suspended for more than ninety (90) days in the aggregate, HWC or CLIENT may, at its option, terminate this Agreement upon giving notice in writing to the other party. HWC shall be entitled to full payment for services rendered to the date of voluntary termination.

### **Delays**

HWC is not responsible for delays caused by factors beyond HWC's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the CLIENT to furnish timely information or approve or disapprove of HWC's services or work product promptly, or delays caused by faulty performance by the CLIENT or by contractors at any level. When such delays beyond HWC's reasonable control occur, the CLIENT agrees that HWC is not responsible for damages, nor shall HWC be deemed to be in default of this Agreement.

### **Insurance**

HWC shall procure and maintain insurance as follows:

1. Professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be either: General Office Coverage or Project Specific Professional Liability Insurance, with a per occurrence limit of not less than \$2,000,000.00. The Professional Liability Insurance shall contain prior acts coverage sufficient to cover all Services performed by HWC, and Worker's Compensation, disability benefit, or any other similar employee benefit laws, including bodily injury, occupational sickness or disease of an employee;
2. Commercial General Liability Insurance, with a per occurrence limit of not less than \$1,000,000.00;
3. Additionally, HWC shall require its Consultants to maintain Commercial General Liability and Comprehensive Automobile Liability coverage.

CLIENT shall procure and maintain insurance as follows:

1. Commercial General Liability Insurance, with a per occurrence limit of not less than ~~\$5,000,000.00~~ \$3,000,000.00

CLIENT shall cause HWC and HWC's Consultants to be listed as additional insured on any general liability or property insurance policies carried by CLIENT which are applicable to the Project.

CLIENT shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause HWC, HWC's Consultants and CLIENT to be listed as additional insured with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

CLIENT and HWC shall each deliver to the other certificates of insurance evidencing the coverage indicated in this Agreement. Such certificates shall be furnished prior to commencement of HWC's services and at renewals thereafter during the life of the Agreement.

All policies of property insurance shall contain provisions to the effect that HWC's and HWC's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insured's or additional insured's there under.

### **Indemnification**

To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless HWC, HWC's Consultants and Subcontractors, and the officers, directors, partners, employees, of each and any of them from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by the negligent acts or omissions of CLIENT or CLIENT's officers, directors, partners, employees, and CLIENT's consultants, contractors and/or subcontractors with respect to this Agreement or the Project.

To the fullest extent permitted by law, HWC shall indemnify and hold harmless CLIENT, CLIENT'S officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by the negligent acts or omissions of HWC or HWC's officers, directors, partners, employees, and HWC's consultants with respect to this Agreement or the Project.

In addition to the indemnity of this Agreement, and to the fullest extent permitted by law, CLIENT shall indemnify and hold harmless HWC, HWC's Consultants and Subcontractors and the officers, directors, partners, employees of each and any of them, from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the presence of asbestos, toxic materials, or any other hazardous, toxic or dangerous environmental condition, on or about the Project site, whether known or unknown to CLIENT, provided that nothing in this Article shall obligate CLIENT to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct. *Further, in no event shall the CLIENT's available defenses including but not limited to contributory negligence be waived or in any manner diminished by any terms or conditions of this agreement.*

The CLIENT agrees to extend any and all liability limitations and indemnifications and entities HWC retains for performance of services under this Agreement, including but not limited to HWC's officers and employees and their heirs and assigns, as well as HWC's subconsultants and their officers, employees, heirs and assigns.

### **Limitation of Liability**

~~In recognition of the relative risks and benefits of the Project to both the CLIENT and HWC, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of HWC and HWC's officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses~~

~~from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of HWC and HWC's officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed HWC's total fee for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.~~

### **Termination**

~~The obligation to provide further services under this Agreement may be terminated *without* cause, by either party upon 30 days written notice. ~~in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party; provided, however, that this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure.~~~~

The obligation to provide further services under this Agreement may be terminated by HWC upon *thirty* (30) calendar days written notice if HWC believes that HWC is being requested by CLIENT to furnish or perform services contrary to HWC's responsibilities as a licensed professional; or if HWC's services for the Project are delayed or suspended for more than ninety (90) days for reasons beyond HWC's control. ~~HWC shall have no liability to CLIENT on account of such termination.~~

The obligation to provide further services under this Agreement may be terminated by CLIENT for convenience, upon thirty (30) calendar day's written notice to HWC. Upon receipt of such notice, HWC shall have fourteen (14) calendar days within which to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, to assemble Project materials in orderly files, and, to the extent necessary, demobilize personnel and equipment from the Project.

The CLIENT shall reimburse HWC for all expenses reasonably incurred by HWC in connection with the termination of this Agreement, including but not limited to demobilization, reassignment of personnel, and space and equipment costs.

In the event of any termination, HWC will be entitled to invoice CLIENT and will be paid in accordance with this Agreement for all services performed or furnished and all Reimbursable Expenses incurred through the fourteen (14) days after the effective date of termination. Additionally, in the event of termination by CLIENT for convenience or by HWC for cause, HWC, in addition to invoicing for those items identified above, shall be entitled to invoice CLIENT and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating agreements with HWC's Consultants, and other related close-out costs, using methods and rates for such costs and services as are provided in this Agreement.

### **Dispute Resolution**

HWC and CLIENT agree that any controversy, claim, counterclaim, or other dispute arising out of or relating to this contract, or any alleged breach thereof, provided that the amount in controversy is in excess of Five Thousand Dollars (\$5,000.00), shall first be submitted by the parties to ~~pre-arbitration~~ mediation, under the Indiana Rules for Alternative Dispute Resolution and with a mediator agreed to by the parties, prior to and as a condition precedent to arbitration, litigation or any other binding action or recourse under law.

Submission of a dispute under this Agreement to mediation will be a condition precedent to filing arbitration or litigation regarding any dispute (when the amount in controversy is in excess of \$5,000) arising out of or related to this contract. Failure to comply with this condition precedent shall be in

contravention of the parties express intention to implement these alternative means of dispute resolution and constitute a breach of this clause.

Mediation shall be conducted by the parties within 120 days after either party has invoked this clause and notified the other party of its intention to mediate. If the mediation does not result in settlement of the dispute or if a party has waived its right to mediate any issues in dispute, then any unresolved controversy or claim arising out of or relating to this contract or breach thereof shall be determined by mandatory and binding arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable Indiana law in any court having jurisdiction thereof.

Any award shall not exceed the amount either claimed or counterclaimed. There shall be no punitive or consequential damages awarded under arbitration and the parties waive their right to claim the same.

Each party shall bear its own costs and expenses of the mediation and/or arbitration.

Except as may be required by law, neither party may disclose the content or results of any mediation or arbitration without prior written consent of both parties.

If one party has filed litigation which is otherwise covered by this dispute resolution clause and which has not been subject to mediation and/or arbitration as per this clause, the other party may properly seek to dismiss or stay the litigation at its discretion for the purpose of conducting mediation or arbitration.

**Notwithstanding any term herein to the contrary, in the event arbitration or litigation is commenced to enforce any term or condition of this agreement, the prevailing party shall be entitled to reasonable arbitration or litigation costs including reasonable attorney fees.**

#### **Information Provided by Others**

HWC shall indicate to the CLIENT the information needed for rendering of services hereunder. The CLIENT shall provide to HWC such information as is available to the CLIENT and the CLIENT's consultants and contractors, and HWC shall be entitled to rely upon the accuracy and completeness thereof. The CLIENT recognizes that it is impossible for HWC to assure the accuracy and completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the CLIENT is providing. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold HWC and HWC's subconsultants harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the CLIENT to HWC.

#### **Document Ownership, Copyrights, and Allowed Document Uses**

All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by HWC as instruments of service shall remain the property of HWC. HWC shall retain all common law, statutory and other rights, including the copyright thereto.

Unless otherwise indicated, with respect to this Project, all Documents are instruments of service. HWC shall retain an ownership and property interest therein (including the right of reuse at the discretion of HWC), whether or not the Project is completed.

The CLIENT acknowledges HWC's construction documents as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the

CLIENT upon completion of the work and payment in full of all monies due to HWC. The CLIENT shall not reuse or make any modifications to the plans and specifications without the prior written authorization of HWC. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold HWC harmless from any claim, liability of cost (including reasonable attorney's fees and defense costs) arising or allegedly arising out of any unauthorized reuse or modification of the construction documents by the CLIENT or any person or entity that acquires or obtains the plans and specifications from or through the CLIENT without written authorization from HWC.

HWC may rely upon copies of CLIENT-furnished data in the performance of its services as defined within this agreement and the agreement Exhibits. The CLIENT-furnished data may be in any acceptable format including electronic media formats such as text, data, graphics, or other types furnished by the CLIENT and acceptable to HWC.

Copies of Documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by HWC. Files in electronic media format of text, data, graphics, or of other types that are furnished by HWC to CLIENT are only for the convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

CLIENT may make and retain copies of Documents for information and reference in connection with use on the Project by CLIENT. Such Documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or any other Project. Any such reuse or modification without written verification or adaptation by HWC, as appropriate for the specific purpose intended, shall be at CLIENT's sole risk and without liability or legal exposure to HWC or to HWC's Consultants. CLIENT shall indemnify and hold harmless HWC and HWC's Consultants from all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting there from.

If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. Any verification or adaptation of the Documents for extensions of the Project or for any other Project shall entitle HWC to further compensation at rates to be agreed upon by CLIENT and HWC.

#### **Right to Retain Subconsultants**

HWC may employ such consultants as HWC deems necessary to assist in the performance or furnishing of the services *provided such consultants are not unacceptable to the CLIENT*. HWC shall not be required to employ any Consultant unacceptable to HWC.

#### **Environmental and Health Hazards**

CLIENT represents to HWC that to the best of its knowledge a hazardous environmental condition does not exist. CLIENT has disclosed to the best of its knowledge to HWC the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.

If a hazardous environmental condition is encountered or alleged, HWC shall have the obligation to notify CLIENT and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

It is acknowledged by both parties that HWC's scope of services does not include any services related to asbestos or hazardous or toxic chemicals.

In the event HWC or any other party encounters a hazardous environmental condition, HWC may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until CLIENT: (i) retains an appropriate specialist consultant(s)

or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous environmental condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

CLIENT acknowledges that HWC is performing professional services for CLIENT and that HWC is not and shall not be required to become an “arranger,” “operator,” “generator,” or “transporter” of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with HWC’s activities under this Agreement.

If HWC’s services under this Agreement cannot be performed because of a hazardous environmental condition, the existence of the condition shall justify HWC’s terminating this Agreement for cause on 30 days notice.

#### **Changed Conditions**

The CLIENT shall rely on HWC’s judgment as to the continued adequacy of this Agreement in light of occurrences or discoveries that were not originally contemplated by or known to HWC. Should HWC call for contract renegotiation, HWC shall identify the changed conditions necessitating renegotiation and HWC and the CLIENT shall promptly and in good faith enter into renegotiation of this Agreement. In establishing fees for the new work to be performed, HWC shall utilize the same fee schedule as already agreed upon, as shown in **Exhibit C**. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement.

#### **Defects in Service**

The CLIENT shall promptly report to HWC any defects or suspected defects related to HWC’s work or services of which the CLIENT becomes aware, so that HWC may take measures to minimize the consequences of such a defect. ~~The CLIENT warrants that~~ HWC will impose a similar notification requirement on all contractors under contract to the CLIENT and shall require all subcontracts at any level to contain a like requirement. Failure by the CLIENT, and the CLIENT’s contractors or subcontractors to notify HWC, shall relieve HWC of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given.

#### **Specifications of Materials**

The CLIENT understands and agrees that products or building materials which are permissible under current building codes and ordinances may, at some future date, be banned or limited in use in the construction industry because of presently unknown hazardous characteristics. The CLIENT agrees that if the CLIENT directs HWC to specify any product or material, after HWC has informed the CLIENT that such product or material may not be suitable or may embody characteristics that are suspected of causing or may cause the product or material to be considered a hazardous substance in the future, the CLIENT waives all claims as a result thereof against HWC. The CLIENT further agrees that if any product or material specified for this Project by HWC shall, at any future date be suspected of or discovered to be a health or safety hazard, then the CLIENT shall waive all claims as a result thereof against HWC.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold HWC harmless from any damage, liability or cost (including reasonable attorney’s fees and defense costs) arising in any way from the specification or use of any products or materials which, at any future date, become known or suspected health or safety hazards, whether unknown to HWC during the term of this Agreement or of which HWC has warned the CLIENT, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of HWC.

### **Construction Phase Services and Construction Observation**

During the Construction Phase, HWC shall not supervise, direct, or have control over any of the Contractor's work, nor shall HWC have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by the Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. HWC neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. HWC shall not be responsible for the acts of omissions of any Contractor(s), subcontractor, or supplier, or any of the Contractor's agents or employees or any other persons (except HWC's own employees) at the Site or otherwise furnishing or performing any of the Contractor's Work, or for any decision made on interpretations or clarifications of the Contract Documents given by CLIENT without consultation and advice of HWC.

### **Additional Services**

If additional engineering or other services, not listed within the "Scope of Services" related section(s) of this agreement are requested in writing by the CLIENT, HWC shall receive payment for such extra work, either by a lump sum fee determined and agreed to by the CLIENT and HWC prior to the commencement of such work and in writing, or on an hourly basis plus reasonable expenses as specified on the attached "Hourly Rate and Reimbursable Expenses Schedule" included herein as **Exhibit C**.

### **Fees, Invoicing, and Payment Terms**

For Professional Services, CLIENT shall pay HWC as set forth in **Exhibit B**.

On hourly, Not-to-Exceed and Hourly (No Limit) agreements or tasks as identified in **Exhibit B**, CLIENT shall pay HWC for Reimbursable Expenses incurred by HWC and HWC's consultants per the Hourly Rate and Reimbursable Expenses Schedule (**Exhibit C**).

HWC shall submit monthly invoices to the CLIENT for the estimated portion of the total services actually completed at the time of the billing. The value of the lump sum services work completed is determined by multiplying the percentage of work completed by the total fee established. The not-to-exceed services shall be billed utilizing the described payroll costs and reimbursable expenses.

Records of HWC's costs pertinent to HWC's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify HWC's charges and upon CLIENT's timely request, copies of such records will be made available to CLIENT at cost.

In the event that the hourly rate portions of this Agreement are not completed in the same calendar year as indicated within the effective date of this Agreement, the CLIENT and HWC agree to amend the hourly rate fees to the HWC updated hourly fee schedule established by HWC for the year in which work is completed and subsequently invoiced.

Invoices are due and payable within 30 days of receipt. If the CLIENT objects to any portion of an invoice, the CLIENT shall notify HWC in writing within ten (10) calendar days of receipt of invoice. The CLIENT shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated below shall be paid by the CLIENT on all disputed invoiced amounts resolved in HWC's favor and unpaid for more than thirty (30) calendar days after date of submission. Payment of any invoice by the CLIENT to HWC shall be taken to mean that the CLIENT is satisfied with HWC's services and is not aware of any deficiencies in those services.

Payments to HWC shall not be withheld, postponed or made contingent on the construction, completion or success of the project or upon receipt by the CLIENT of offsetting reimbursement or credit from other parties causing Additional Services or expenses. No withholdings, deductions, or offsets shall be made from HWC's compensation for any reason unless HWC has been found to be legally liable for such amounts.

If the CLIENT fails to make any payment due HWC for services and expenses within thirty (30) days after receipt of HWC's invoice, the amounts due HWC will be increased at the rate of 1.5% per month from the thirtieth day from invoicing. Payments will be credited first to interest and then to principal.

~~If the CLIENT fails to make payments when due and HWC incurs any costs in order to collect overdue sums from the CLIENT, the CLIENT agrees that all such collection costs incurred shall immediately become due and payable to HWC. Collection costs shall include, without limitation, legal fees, collection agency fees and expenses, court costs, collection bonds and reasonable HWC staff costs at standard billing rates for HWC's time spent in efforts to collect. This obligation of the CLIENT to pay HWC's collection costs shall survive the term of this Agreement or any earlier termination by either party.~~

In addition, HWC may, after giving fourteen days written notice to the CLIENT, suspend services under this Agreement until HWC has been paid in full all amounts due for services, expenses, and other related charges. HWC shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of this Agreement by the CLIENT.

If the CLIENT fails to make payment to HWC in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination by HWC.

Payment of invoices is in no case subject to unilateral discount or set-offs by the CLIENT, and payment is due regardless of suspension or termination of this Agreement by any party.

#### **Excluded Services**

Other services available from HWC and applicable to the Project have been made known and explained to the CLIENT. Where HWC has deemed a service needed or advisable, HWC has made its opinion known to the CLIENT, and the CLIENT has confirmed his or her opinion that such services are not requested of HWC and/or that the CLIENT has made or shall make arrangements to obtain those services from a source other than HWC. These excluded services are identified in **Exhibit A**.

The CLIENT hereby agrees, to the fullest extent permitted by law, to indemnify and hold HWC harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) for injury or loss arising or allegedly arising from HWC's failure to perform a service listed above and excluded at the CLIENT's direction.

#### **Additional Terms**

Nothing contained therein shall be deemed or construed to create an obligation on the part of either party to any third party, nor shall any third party have a right to enforce against either party any rights under this Agreement, other than a duly authorized assignee of the parties.

The parties may not assign or transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other. The rights and privileges under this Agreement shall inure to the benefit of the parties' respective successors and assigns.

Any notice contemplated herein or required or permitted to be given hereunder shall be in writing and shall be deemed to be given when delivered personally or sent by registered or certified mail, postage prepaid,

return receipt requested to the parties at the addresses set forth in the preamble of this Agreement, or to such other address as either party may have last specified by written notice to the other.

The parties are independent entities. Neither party shall represent itself as an employee or subcontractor of the other, nor is this Agreement or any related documents intended to be construed so as to make either party an employee or subcontractor of the other. Except as otherwise provided in this Agreement, neither party shall have the ability to bind the other to any agreement for payment of goods or services, nor shall it represent to any person that it has such ability. All expenses incurred by the parties hereto are their respective sole responsibility, unless otherwise provided for in this Agreement.

All of the parties hereto agree that in the interpretation, performance or resolution of any disputes or claims arising under this Agreement, the law of the State of Indiana shall govern, notwithstanding any state's choice of law rules to the contrary.

This Agreement, and all other referenced exhibits which form a part of this Agreement, constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be deemed to supersede all prior and contemporaneous agreements, representations, and understandings, whether written or oral, and the same shall be deemed to have been merged into this Agreement. No other promises or inducements have been made to the parties except those that are included in this Agreement. No amendment or modification to this Agreement shall have any force or effect unless it is in writing and signed by the duly authorized officers of the parties.

The prevailing party in any court action or arbitration under this Agreement shall be entitled to recover reasonable attorney's fees incurred in the enforcement of this Agreement.

The failure of either party hereto to insist in any one or more instances upon the performance of any of the provisions of this Agreement or to pursue its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights.

The subject headings of the sections of this Agreement are for convenience only, and shall not affect the construction or interpretation of any of its provisions.

The parties hereto stipulate and agree that each and every paragraph, term and provision of this Agreement shall be considered severable. The invalidity, illegality or unenforceability of any paragraph, term or provision of this Agreement shall in no way affect the validity, legality and enforceability, operation, or effect of the remaining paragraphs, terms or provisions hereof, and this Agreement shall be construed in all respects as if the invalid, illegal or unenforceable provision was omitted.

All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

Each party agrees to execute and deliver to the other party and will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, conveyances, mortgages, assignments, transfers and assurances as such party may reasonably require for purposes of effectuating this Agreement.

This Agreement may be executed in multiple counterparts, each one of which shall constitute an original. This Agreement may be executed by facsimile signature. The party so executing this Agreement shall deliver an original of such facsimile signature.

Notwithstanding any other provision of this Agreement, neither HWC nor the CLIENT shall be liable to the other for any consequential damages incurred due to the fault of either HWC or the CLIENT or whether it was committed by the CLIENT or HWC, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

It is intended by the CLIENT and HWC that HWC's services in connection with the Project shall not subject HWC's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, the CLIENT agrees that as the CLIENT's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Hannum, Wagle & Cline Engineering, an Indiana Corporation, and not against any of HWC's Professional employees, officers, or directors.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

**"CLIENT"**

**City of West Lafayette, Indiana**

\_\_\_\_\_  
By:

\_\_\_\_\_  
Printed:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:  
\_\_\_\_\_

CLIENT's Designated Representative is:

\_\_\_\_\_  
Name: David Henderson

\_\_\_\_\_  
Phone:

\_\_\_\_\_  
Fax:

**"HWC"**

**Hannum Wagle & Cline Engineering**

\_\_\_\_\_  
By:

\_\_\_\_\_  
Printed:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Date:  
\_\_\_\_\_

HWC's Designated Representative is:

\_\_\_\_\_  
Name: Brian E. Pohlar, P.E.

\_\_\_\_\_  
Phone: 765-742-9700

\_\_\_\_\_  
Fax: 765-742-9701  
\_\_\_\_\_

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## **EXHIBIT A SCOPE OF SERVICES**

### **General Description of Services**

In general, this scope of services for this project includes design, permitting, bidding and construction phase services on the Soldiers Home Lift Station for the City of West Lafayette, Indiana (Client).

The project includes the renovation of the Soldier's Home Lift Station to include:

- Demolition and removal of existing roof, pumps, piping and controls.
- New piping and valves with a new flow meter.
- The electrical and controls will be updated with more reliable outgoing communication to the City's SCADA system. The outside transfer switch on the utility pole will be relocated to protect it from future flooding.
- Install a back-up generator on a concrete structure (elevated above the flood elevation).
- Two new premium Efficiency Motors for the two replacement 1,600 gpm dry pit pumps with variable frequency drives (VFDs) shall be installed and a third motor and pump will be installed. Two of the replacement pumps have already been purchased by the City.
- Replace the ventilation system with a dual speed unit.
- Construct a vertical addition to the wet well, raising it above the 25-year flood elevation. New aluminum hatches would be added that would allow improved access to the wet well. Finally, a spray-on protective epoxy coating should be added to the interior walls of the wet well to prevent corrosion from Hydrogen Sulfide.
- Replace the existing manlift.
- Construct a permanent access point for emergency bypass pumping. This would be in a separate vault on the outside of the station.
- Regrade the drive and replace with concrete.
- Replace the roof with a high albedo material (i.e. highly reflective) that will help reduce the heat island effect. A daylighting panel will also be provided as an access hatch. The new roof will be designed for future deconstruction, such as using Thermoplastic Olefin (TPO) or standing seam metal which can be recycled.
- Cut-in windows on the east-facing wall of the lift station to provide daylighting as a means of reducing lighting costs.
- Replace the outside lighting with "dark sky" lighting that minimizes light pollution.

The City plans to use local funds to finance the project

A detailed description of the services to be provided to meet this general project intent follows:

#### **Surveying**

1. Provide field surveys as needed for design purposes to pick up utility locations, manhole, pipe inverts, building finished floor elevations and site topography. Utility mapping shall be based upon information provided to HWC from utility owners and survey of marked utilities in the field.

### **Geotechnical Investigation**

1. Complete soil-boring services necessary for design purposes with a geotechnical engineering subconsultant. The scope anticipates completing one soil boring for the generator structure pad at the lift station. Also a soil boring will be completed to test the soil permeability.

### **Design and Permitting Phase**

1. The design of the project shall be based on the scope of work described above that was developed in the Preliminary Engineering Report prepared June, 2010 by Hannum, Wagle & Cline Engineering.
2. Prepare bidding/construction plans and specifications for the Project. Documents shall be based on a total of two prime construction contracts. Planned submittals will include a 50% preliminary plan review set, a permit ready plan set (approx 75%), and Final Bidding Plans (100%).
3. Prepare an opinion of probable construction cost to be included with each of the 50%, 75% and 100% plan submittals. The 100% will be prepared using the bid pay items and estimated quantities.
4. Attend up to 4 meetings during the design phase of the project. This includes project progress meetings with the owner.
5. Conduct utility coordination with other utilities in the area to help minimize any conflicts. The 50% plan set will be sent to all applicable utilities and a coordination meeting will be set up to discuss potential conflicts. Additional coordination with each utility will be conducted as necessary depending on the nature of any conflicts.
6. Prepare permit applications for the following permits.
  - Indiana Department of Environmental Management Facility Construction Permit.
  - Indiana Department of Transportation – Driveway replacement on SR 43.
  - Indiana Department of Natural Resources – Construction in a floodway.
  - Local and State Building Permits.
7. Engineer's services under the Design Phase shall be considered complete on the date when the Engineer submits bidding/construction ready plans and specifications to the Client requesting authorization to proceed to bidding.

### **Bidding Phase**

This assumes that the project will be bid as one division.

Provide bidding services for the project including:

1. Prepare a notice to bidders and submit it to the Client for publication.
2. Coordinate the distribution of plans and specifications to bidders. Documents shall be made available to bidders at the cost of printing.
3. Answer bidder questions during the bid phase.
4. Issue addenda to clarify, correct or change the Bidding Documents.
5. Facilitate one pre-bid conference.
6. Attend the bid opening.
7. Review bids submitted for conformance to the project documents. Submit a summary of this review to the Client.
8. Prepare a tabulation of bids received.
9. Attend one meeting with the Client to review bids received.

10. Assist the Client in evaluating bids or proposals and in assembling and awarding contracts for the Project.
11. The bidding phase fee is based upon one bidding of the project.
12. The bidding phase shall be considered complete upon issuance of a Notice to Proceed, or 90 days following the receipt of bids.

### **Construction Engineering Phase – Part Time**

This assumes that the project will be bid as one division and that all construction will happen at the same time.

Complete construction engineering services for the project, including:

1. Facilitate one pre-construction conference
2. Review shop drawings and submittals
3. Review requests for change orders
4. Review requests for information from the contractor.
5. Attend up to 6 construction progress meetings.
6. Conduct 6 site visits during the progress of construction. Meetings shall coincide with the construction progress meetings.
7. Attend up to 2 other meetings with the Client or at the job site during the construction phase.
8. Attend one project walk through.
9. Develop a punch list based on outstanding issues identified at the project walk through.
10. Review contractor's applications for payment.
11. Prepare construction record drawings. These drawings shall be based on plan markups provided to HWC by the Contractor. No field verification of as-built information by HWC is included.

### **Construction Observation Phase**

#### *Resident Project Representative*

- A. Engineer shall furnish a Construction Inspector to assist Engineer in observing progress and quality of the Work. The Construction Inspector will provide observation/representation, not to exceed 8 hours per day for 40 working days.
- B. Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR, Engineer shall endeavor to provide further protection for Client against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- C. The duties and responsibilities of the RPR are limited to those of Engineer in the Agreement with the Client and in the Contract Documents, are further limited and described as follows:

1. *General:* RPR is Engineer's agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor, keeping Client advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Client with the knowledge of and under the direction of Engineer.
2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
  - a. Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the Contract Documents.
  - b. Assist Engineer in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-Site operations.
  - c. Assist in obtaining from Client additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
  - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.

8. *Review of Work and Rejection of Defective Work:*
  - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or required special testing, inspection or approval.
9. *Inspections, Tests, and System Startup:*
  - a. Consult with Engineer in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
  - b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Client's personnel, and that Contractor maintains adequate records thereof.
  - c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems startups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.
10. *Records:*
  - a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project related documents.
  - b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- c. Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
  - d. Maintain records for use in preparing Project documentation.
  - e. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.
11. *Reports:*
- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
  - b. Draft and recommend to Engineer, proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
  - c. Furnish to Engineer and Client copies of all inspection, test, and system startup reports.
  - d. Report immediately to Engineer the occurrence of any Site accidents, any Hazardous Environmental Conditions, emergencies, or acts of God endangering the Work, and property damaged by fire or other causes.
12. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Client prior to payment for that part of the Work.
14. *Completion:*
- a. Before Engineer issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
  - b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.

- c. Participate in a final inspection in the company of Engineer, Client, and Contractor and prepare a final list of items to be completed or corrected.
  - d. Observe whether all items on final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.
- D. Resident Project Representative shall not:
- 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including “or-equal” items).
  - 2. Exceed limitations of Engineer’s authority as set forth in the Agreement or the Contract Documents.
  - 3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor’s superintendent.
  - 4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor’s work unless such advice or directions are specifically required by the Contract Documents.
  - 5. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of Client or Contractor.
  - 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
  - 7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
  - 8. Authorize Client to occupy the Project in whole or in part.

### **Notations, Exceptions and Assumptions**

This proposal is based on a number of critical assumptions, including:

- 1. This scope of services is based on a construction budget of approximately \$572,000 (excluding non-construction costs).
- 2. No land acquisition services are included.
- 3. Preparation of additional permit applications beyond those indicated above is not included.
- 4. All fees for permit applications and legal publishing shall be paid by others.
- 5. Legal services and/or representation at legal proceedings, including but not limited to, property re-zoning, plan commission submittals, etc. are not included.
- 6. No wetlands determination or delineation is included.
- 7. No environmental, historical or archaeological reviews or investigations are included.

8. Additional work associated from permit protests is not included.

**Deliverables**

Following is a summary of the deliverables to be provided by HWC. Providing additional copies of any documents shall constitute extra services and shall be reimbursable per the rates in Exhibit C.

<b>Deliverable Description/Number Of Deliverables to Be Provided</b>	<b>Client</b>	<b>Bidders</b>	<b>Utilities</b>	<b>Plan Houses</b>	<b>Contractors</b>	<b>IDEM</b>	<b>Tippecanoe Co.</b>	<b>IDNR</b>	<b>INDOT</b>	<b>IDEM Rule 5</b>	<b>TOTAL</b>
50% Review Plans	3		8								11
Permit Ready Plans (75%)	3					2	2	2	2	2	13
Final Plans and Specifications	3	As Purchased		4	3						10
<b>Total</b>											34

**EXHIBIT B  
COMPENSATION AND TIME SCHEDULES**

Following is a schedule of the activities to be completed under this contract, the compensation amount for each activity, the form of the compensation, and the scheduled completion date for the activity.

<b>Activity</b>	<b>Compensation</b>	<b>Compensation Type</b>	<b>Scheduled Completion</b>
<b>Surveying Allowance</b>	\$3,000	Sub-Consultant Cost	30 days from Notice to Proceed
<b>Geotechnical Investigation Allowance</b>	\$3,000	Sub-Consultant Cost	During Design as Needed
<b>Design and Permitting of Project</b>	\$69,800	Lump Sum	
<ul style="list-style-type: none"> <li>• 50% Plan Submittal to City</li> </ul>			120 days from Notice to Proceed
<ul style="list-style-type: none"> <li>• Submission of plans for Permit Approvals (75%)</li> </ul>			180 days from Notice to Proceed
<ul style="list-style-type: none"> <li>• Final Plans and Specifications for Bidding of Project</li> </ul>			30 days from receipt of all permits and Notice from owner
<b>Bidding</b>	\$4,300	Lump Sum	45 days from authorization to bid from Owner
<b>Construction Engineering</b>	\$15,900	Lump Sum	Construction Dependent – Assume 180 day construction duration
<b>Construction Observation- Part Time</b>	\$29,200	Hourly NTE	Construction Dependent – Maximum 40 days on-site
<b>TOTAL</b>	<b>\$125,200</b>		

**EXHIBIT C**  
**Hannum Wagle & Cline Engineering**  
**2011 Hourly Billing Rates**

<b><u>Position</u></b>	<b><u>Hourly Rate</u></b>
Principal	\$195 / HR
Senior Project Manager	\$190 / HR
Project Manager	\$140 / HR
Project Engineer	\$105 / HR
Architect	\$145 / HR
Landscape Architect	\$100 / HR
Designer/Technician	\$85 / HR
Draftsman	\$75 / HR
Clerical Support	\$65 / HR
Construction Inspector I	\$90 / HR
Construction Inspector II	\$80 / HR
Survey Crew Leader	\$95 / HR
Survey Crew Member I	\$75 / HR
Survey Crew Member II	\$55 / HR

**REIMBURSABLE EXPENSES**

- Direct Travel Expense - including mileage (the current rate allowed by the IRS), air fare, car rental, lodging, meals, large blueprint and copying runs, etc. These rates are for services performed during the 2011 calendar year.
- Large format black and white prints at \$.375 per square foot.
- Plots at \$2.00 per square foot.
- Black and white copies at \$.10 per sheet.
- Color copies at \$.50 per sheet
- CD's at \$25.00 each.
- Actual cost of long distance telephone calls, expense charges, photographs and postage.
- Actual cost of survey stakes, flagging, etc.
- Expenses will be billed at cost plus a 10% administrative fee.
- Hours worked in excess of 8 hours per day or 40 hours per week will be billed at an overtime rate of 1.5 times the rates listed for non-exempt employees.