October 28, 2013

Mr. David S. Henderson
Utility Director
City of West Lafayette, IN
500 South River Road
West Lafayette, IN 47906-3613

Subject: **Flow Monitoring – Professional Services Agreement**

Dear Mr. Henderson,

ADS Environmental Services (ADS) is pleased to submit this agreement for Professional Flow Monitoring Services for the City of West Lafayette, IN.

This document will provide you with the details of such services. ADS will provide comprehensive field services for four (4) flow monitors and three (3) rain gauges. ADS will also provide all of the Data Processing, Analysis, and Reporting. This will also include our monthly DMR submission and web-based reporting features of Intelliserve.

We stand committed to providing a high level of service and professionalism on this project. If you have any questions or comments, please feel free to contact me directly.

Sincerely,

Christopher Skehan, M.S.
Business Development Manager
ADS Environmental Services
(708) 341-9701
cskehan@idexcorp.com

PROFESSIONAL OR TECHNICAL SERVICES AGREEMENT

The Parties named below hereby agree to be bound to the terms and conditions on the following pages and in accordance with the Exhibits attached to and incorporated herein to this Agreement.

ADS LLC:
1300 Meridian Street, Suite 3000, Huntsville, Alabama 35801

By: _____ Tm

Printed Name: Joseph J. Gouveia

Title: Treasurer

Date: 1/3/2014

CLIENT: _____

Address: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

TERMS AND CONDITIONS OF AGREEMENT

NOW THEREFORE, the Parties, agreeing to be legally bound, hereby agree as follows:

ARTICLE 1 –RESPONSIBILITIES OF THE PARTIES

1.01 ADS

A. ADS shall provide the Services set forth herein and in the ADS Proposal dated _____ attached hereto and incorporated herein as Exhibit A.

B. The standard of care for all services performed or furnished by ADS under this Agreement will be the care and skill ordinarily used by members of ADS' profession practicing under similar circumstances at the same time and in the same locality. ADS makes no warranties, express or implied, under this Agreement or otherwise, in connection with ADS' services, except as provided in section 4.01.

1.02 CLIENT

A. Client shall have the responsibilities set forth herein and in Exhibit A.

ARTICLE 2 - PAYMENTS TO ADS

2.01 Compensation

A. Client shall pay ADS in accordance with the schedule set forth in Exhibit A.

2.02 Invoices

A. Invoices will be prepared in accordance with ADS' standard invoicing practices, unless otherwise stated in Exhibit C. Invoices are due and payable within thirty (30) days after the date they are issued by ADS. If Client fails to make any payment due ADS for services and/or reimbursable expenses within thirty (30) days after issuance of ADS' invoice, the amounts due ADS will be increased at the rate of one and one-half percent (1.5%) per month (or the maximum rate of interest permitted by law) from said thirtieth day.

ARTICLE 3 – TERMINATION

3.01 Termination

A. *For Cause*

1. The obligation to provide further services under this Agreement may be terminated by either party for cause upon thirty (30) days written notice in the event of a substantial failure by either party to perform in accordance with the terms of this Agreement through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the Party receiving such notice begins, within seven (7) days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days of receipt thereof.

2. In the event of termination by ADS for cause, ADS will be entitled to invoice Client and will be paid for all services rendered and all reimbursable expenses incurred through the effective date of termination.

B. *For Convenience*

1. Either party may terminate this Agreement for its convenience upon sixty (60) days written notice to the other party. If this Agreement is terminated by the Client for its convenience, ADS shall be paid a reasonable amount for expenses directly attributable to termination, both before and after the effective date of termination, including, but not limited to demobilization expenses and costs associated with terminating subcontract agreements.

ARTICLE 4 - GENERAL CONSIDERATIONS

4.01 Warranty

A. All new products manufactured by ADS will be free from defects in material and workmanship for up to one (1) year following the date of shipment from ADS. Any unauthorized repair or replacement, use, installation or incorporation of unauthorized parts or accessories, including without limitation opening up a monitor, will void this product warranty. Any repair or replacement will be covered by this new product warranty for ninety (90) days from the date that such repaired or replaced product is shipped from ADS. This warranty is available to the Client as the original purchaser of the product and only if it has been installed, operated, and maintained in accordance with ADS' standards. This warranty does not apply to damage by catastrophes of nature, fire, explosion, acts of God (including, but not limited to, lightning damage and power surges), accidents, improper use or service, damage during transportation, or other similar causes beyond ADS' control.

2. To the extent allowed by law, ADS hereby expressly excludes any warranty for design defect. While products manufactured by ADS are designed and manufactured to meet published specifications, ADS may from time to time improved products currently in the market. However, purchased hardware manufactured to a previous design will only be replaced or upgraded at ADS' discretion.

4.02 Use of Documents

A. If required, ADS shall provide Client with a printed hard copy of the deliverable agreed upon in Exhibit A. All other deliverables shall be in the appropriate electronic media format.

B. Client agrees that it will perform acceptance tests or procedures on electronic files within thirty (30) days of receipt of same, after which the Client shall be deemed to have accepted the data thus transferred. Any errors detected within the thirty (30)-day acceptance period will be corrected by ADS.

C. Any reuse or modification of the Documents without written verification or adaptation by ADS, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to ADS or to ADS' Subcontractors. Client shall indemnify and hold harmless ADS and ADS' Subcontractors from all claims, damages, losses, and expenses, including attorneys' fees arising out of such use.

4.03 Changes, Modifications and/or Amendments

A. All changes, modifications and/or amendments to this Agreement or Exhibit A hereto shall be made in writing and shall be signed by both Parties.

4.04 Insurance

A. During the term of this Agreement, ADS shall at all times procure and maintain at a minimum the following insurance coverage:

General Liability $1,000,000 CSL and annual aggregate

Automobile Liability $1,000,000 CSL and annual aggregate

Workers Compensation as required by statute

ADS will provide Evidence of Insurance upon request.

4.05 Controlling Law, Venue and Dispute Resolution

A. The Parties shall endeavor to resolve any disputes through informal negotiations between the Parties. If the dispute cannot be resolved within sixty (60) days after first notice of the dispute, the Parties agree that the dispute may be submitted to the court of competent jurisdiction in the county in which the work under this Agreement was performed, or in an alternative location upon agreement of the Parties.

B. THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THIS AGREEMENT.

C. In the event of any dispute and/or legal action arising from an interpretation and/or the performance of any of the provisions of this Agreement, the Parties hereby agree that the prevailing Party shall be awarded reasonable attorney's fees and costs, including but not limited to, the cost of paralegals, accountants and attorney's fees and costs of appellate proceedings, if applicable.

4.06 Successors, Assigns, and Beneficiaries

A. Neither party shall assign this Agreement without the prior written consent of the other, which shall not be unreasonably withheld, except that without securing such prior consent either party shall have the right to assign this Agreement, and all obligations hereunder, to any successor by way of merger or consolidation or the acquisition of all or substantially all of the business and assets of the party relating to the subject matter of these terms. This right shall be retained provided that such successor shall expressly assume all of the obligations and liabilities of the assigning party under the Agreement. Any assignment in violation of this paragraph shall be void. The terms and conditions of this Agreement shall be binding upon and enforceable by the successor and permanent assign of the assigning party.

B. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and ADS and not for the benefit of any other third Party.

4.07 Limitation of Liability

A. TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ADS, OR ANY OF ITS AFFILIATES, DIRECTORS, EMPLOYEES, AGENTS OR PARENT COROPRATIONS, BE LIABLE TO ANY PERSON,

FIRM OR ENTITY, INCLUDING, BUT NOT LIMITED TO CLIENT, FOR ANY INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE AND/OR LOST SAVINGS, EVEN IF CLIENT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE OR IF SAME WERE REASONABLY FORESEEABLE.

4.08 Force Majeure

A. Neither Client nor ADS shall hold the other responsible for damages or delays in performance caused by Force Majeure or other events beyond the control of the other Party which could not reasonably have been anticipated or prevented. Force Majeure shall include, but not be limited to, unusually severe weather, floods, power outages, epidemics, war, acts of terrorism, riots, strikes, lockouts, exercise of police power, condemnation or eminent domain. The foregoing shall not give rise to any claims or damages or be considered a waiver by either Party of the obligations of this Agreement.

4.09 Confidentiality and Non-disclosure

A. Both Parties acknowledge that, in the course of performing this Agreement, certain employees, agents or representatives may be exposed to or acquire information which is proprietary or confidential. Such proprietary and confidential information may include without limitation information related to research, development, designs, plans, reports, investigations, materials, data, pricing, trade secrets, customer lists, salaries, or business information ("Confidential and Proprietary Information").

B. Both Parties agree to hold each other's Proprietary and Confidential Information in strict confidence and not to make each other's Proprietary and Confidential Information available in any form to any third party or to use each other's Proprietary and Confidential Information for any other purpose than for the performance of work under the implementation of this Agreement.

4.10 EEO Statement

A. It is the policy of ADS to recruit, hire, train, compensate, promote, discipline, and otherwise treat its employees and applicants without regard or consideration for the individual's race, color, religious creed, sex, age, national origin, ancestry, mental or physical disability, marital status, citizenship status or any other reason prohibited by law. In addition, ADS is committed to fully complying with all applicable laws and regulations regarding the Americans with Disabilities Act of 1990, Title VII of the Civil Rights Act, and the Vietnam Era Veterans Readjustment Assistance Act and applicable Federal, State, and Local regulations. ADS also provides equal employment opportunity in all employment practices to qualified applicants and employees without regard to disability.

4.11 Notices

A. Any notice required under this Agreement shall be in writing, addressed to the appropriate Party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

4.12 Survival

A. All express representations, indemnifications, limitations of liability, and assurances of confidentiality included in this Agreement shall survive its completion or termination for any reason.

4.13 Severability

A. Any provision or part of this Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and ADS, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

4.14 Waiver

A. Non-enforcement of any provision by either Party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

4.15 Headings

A. The headings used in this Agreement are for general reference only and do not have special significance.

4.16 Entire Agreement

A. This Agreement constitutes the entire agreement between the Parties and exclusive statement of the terms between the Parties with respect to services to be performed hereunder. The Exhibits referenced in this Agreement and the specifications and drawings referenced therein are a part of this Agreement with the same force and effect as if fully set forth herein. No alteration, modification, or amendment of any of the provisions hereof shall be binding unless in writing and signed by duly Authorized Representatives of the Parties.

Exhibit A

PROPOSAL

ADS proposal dated _____ containing the agreed upon Scope of Work, Compensation and Party Responsibilities is attached hereto and incorporated as if fully set forth herein.

Exhibit A

SCOPE OF WORK

Article 1 of the Agreement is amended and supplemented to include the following agreement of the Parties. ADS shall provide Basic and Additional Services as set forth below.

Part 1 –Basic Services

1. Comprehensive Field Services.

As part of a Comprehensive Service Program, ADS will perform the following services on four (4) existing ADS flow monitors and three (3) ADS Rain Gauges. These services are identical to what ADS has been providing in the past, and require no involvement from the City of West Lafayette. Eric Hehmann, Project Manager, will be designated as the immediate contact for problems associated with maintenance and confirmation work. These services include the following:

A. Diagnostics: Remote diagnostic inspection of all equipment using the most current procedures and programs from its facilities in Indianapolis, IN. Our Regional Office in Indianapolis is staffed with our Project Manager, Field Managers, and Field Associates, and Regional Engineer.

B. Repair: Repair and preventative maintenance services necessary to keep the equipment operating in accordance with the manufacturer's design specifications. The types of services to be performed under this Agreement include but are not limited to the following:

- Communication link failure
- Confirmation of all equipment on a quarterly basis
- 90% Uptime for each monitoring site (Assumes working phone line. Not applicable for manual collection of data).
- Depth sensor replacement (a depth sensor shall be considered for replacement if the sensor has less than five (5) good sensor pairs firing in both directions);
- Battery replacement (battery voltages shall be considered as being low when the voltage is less than 8.0V);
- Velocity sensor replacement (a velocity sensor shall be considered for replacement if the sensor readings are a constant value or zero, indicating a loss of sensitivity and/or does not respond to overflow events or confirmations).

C. Service Schedule: The field service shall accommodate normal operating hours of 8:00 a.m. to 5:00 p.m. Monday through Friday (service during holidays our outside of normal business hours shall be at ADS's then current Time and Materials rate).

D. Response Time: ADS will investigate perceived malfunction or monitor or communication equipment within two (2) business days of discovery of the malfunction. ADS will repair or replace any malfunctioning equipment within two (2) business days of initial field investigation.

E. Telephone Telemetry: This proposal and pricing assumes that each monitor has either a wireless cellular connection or a working telephone line. ADS will provide troubleshooting and repair of the telephone line only from the flow monitor to the telephone interface box. ADS is not responsible for telephone repairs made necessary by acts of third parties or the Telephone Company. ADS is not responsible under the Service Agreement for the phone line beyond the local site interface box. Any telephone line repairs or manual collects outside this scope will be done on a time and materials basis.

F. Exclusions: The types of services excluded under a Comprehensive Service Agreement are as follows:

- changes or alterations in specifications;
- painting or refinishing or furnishing materials therefore except as damaged by ADS during service work;
- installation, moving, or removing of equipment unless required as part of the repair process;
- repairs made necessary by accident of the City, its employees, agents, contractors or invitees;
- repairs made necessary due to attempts by the City to repair or maintain the equipment unless authorized by ADS;
- maintenance and repair necessary to put equipment not under the comprehensive scheduled service contract in good repair;
- equipment repair or replacement outside manufacturer's design specifications; and
- repairs made necessary due to events beyond ADS's control (*force majuere*).

2. Data Processing, Analysis Services, and Reporting Services.

ADS will provide data processing and reporting services for four (4) ADS flow monitors and three (3) ADS Rain Gauges including data collection, data auditing, and data editing. These are further described below:

A. Data Collection: An ADS data analyst creates a location information file ("LIF") for each site and creates a site sheet. The analyst collects data from each monitoring location twice per week. If the monitor does not collect successfully, the analyst schedules a field service visit.

B. Data Auditing: The data analyst reviews the collected data at each site twice per week, which includes the following:

- Analyzing of data patterns in both the Hydrograph and Scattergraph to assess if patterns are consistent with functioning equipment and valid hydraulics;
- Comparison of meter data to field confirmations. ADS will maintain two (2) valid confirmations for each typical monitoring site;
- The analyst will notify the Field Manager if the confirmation readings are invalid as indicated by his/her analysis;
- The analyst will specifically look for indications of malfunctioning equipment, low battery voltage, and questionable changes in meter parameters; and
- A list will be prepared of sites requiring further field service and given to the Field Manager. The Field Manager is responsible for the completion of the field service work indicated on the list.

C. Data Editing: The Data Analyst will edit the data each month including the following:

- The Analyst will create the DFINAL entity by choosing which raw depth entity(s) to use for the time period of the edit;
- The Analyst will interpolate sporadic pops and drops;
- The Analyst will adjust surcharge depths to full pipe if necessary;
- The Analyst will determine silt levels and enter or confirm them in the database;
- The Analyst will also calculate and apply gains to velocity data, if necessary. The velocity data will be edited by flagging sporadic pops and drops or interpolating these points if valid;
- The Analyst will select the final flow equations and calculate the QFINAL entity. The continuity equation will be used whenever reliable velocity data exits;

- The Analyst will perform final inspection of the data, which includes review of the DFINAL, VFINAL, and QFINAL data entities on a hydrograph. A scattergraph is then reviewed comparing the final depth and velocity entities against field confirmation measurements; and
- A final balance is performed on the data. The Analyst will check for negative net flows and troubleshoot the problem if necessary. The flow patterns will also be examined. If the upstream and downstream patterns are dissimilar, the Analyst will investigate to either correct errors or document the conditions that verify the unusual flow patterns.

D. Data Review: A Senior Data Analyst or Project Engineer reviews all final data and reports before they are delivered. This includes a 19-point checklist, which includes the following: Pipe shape; Pipe dimensions; Physical offset; Average to Peak application; DFINAL composition; Velocity Data editing; Gain values; Scattergraph; Hydraulic Coefficient (if applicable); QFINAL selection; Silt; and Comparison to U/S and D/S locations.

E. Reporting: ADS will provide monthly reporting for the four (4) ADS flow monitors and three (3) ADS Rain Gauges in the Owner's Network. A monthly report, including a DMR (Discharge Monitoring Report) will be delivered electronically via Intelli-Serve and shall include:

- A site commentary for each location, which includes a table listing the maximum, minimum and average depth, velocity and quantity. The commentary briefly discusses the data as compared to previous months and provides information on the method used to obtain final quantity data;
- A scattergraph of DFINAL and VFINAL for the month with confirmation points shown;
- A monthly hydrograph of DFINAL, VFINAL and QFINAL (and RAIN if rain gauges are present);
- Weekly hydrographs of DFINAL, VFINAL, and QFINAL;
- Monthly tabular data of DFINAL, VFINAL, and QFINAL;
- Weekly tabular data of DFINAL, VFINAL, and QFINAL; and
- Installation reports with the site location, photographs and other physical characteristics of the site.

F. Web-based Reporting. All reporting will be provided via Intelli-serve.

- Access: ADS will provide secure access to the Intelli-serve system for the Owner and others designated by the Owner. Each user will receive a unique login and password in order to access the web based system.

- Monthly Reports: ADS will provide the Owner with the ability to generate and examine predefined or user defined, interactive reports using the ADS Intelli-serve™ reporting system. Intelli-serve™ is a hosted system available via the internet using any internet explorer web browser. Each user of the system will have a unique login and password, customizable for different levels of data access, sharing and viewing. The system will include the ability to generate and view:

    - User defined weekly and monthly hydrographs of depth, velocity, flow, and rain for each site;
    - scattergraphs for each site;
    - monthly rainfall hyetographs;
    - tabular depth, velocity, and flow data in both monthly summary form and native interval form;
    - monthly site commentary;
    - detailed site reports with digital photographs, and;
    - Monthly service reports.

- ADS will prepare a monthly DMR report for the CSO monitors. The report will be posted to the Intelli-serve web site by the 15th day of each month.

- Library of Final Data: ADS will store all edited final flow and rainfall data within the ADS Intelli-serve™ system, which will be available to Owner as needed. Monthly finalized data will be posted to the system by the 20th day of the month. All finalized data points (15 or 5 minute readings as applicable) will also be stored.

Part 2 – Additional Services

None

Exhibit B

OWNER'S RESPONSIBILITIES

Article 2 of the Agreement is amended and supplemented to include the following agreement of the Parties.

Owner agrees to perform the following functions in connection with this Agreement. Owner agrees that certain activities must be acknowledged prior to ADS having an obligation to perform services enumerated in Exhibit A herein.

- The Owner will be responsible for coordinating any necessary line repairs with the telephone company.
- Owner will designate a project manager to coordinate ADS's work and to act as the Owner's representative with respect to the work performed under this Agreement.
- Owner will provide access to and make all provisions for ADS to enter upon public and private lands as required for ADS to perform work under this Agreement.
- Owner will not make repairs or perform maintenance or attempt to do so on the equipment covered under this Agreement unless authorized by ADS. This shall include removal, relocation or installation of monitoring equipment.

Exhibit C

ADS'S COMPENSATION

Article 4 of the Agreement is amended and supplemented to include the following agreement of the Parties:

Item	Quantity	Unit Price	Total	Remarks
Comprehensive Maintenance on Four (4) ADS Flow Monitors and seven (3) Rain Gauges **(per meter per month)**	144	$355.00	$51,120.00	Includes all comprehensive service as described in Exhibit A.
Data Processing on Four (4) ADS Flow Monitors and Three (3) Rain Gauges including monthly DMR **(per meter per month)**	144	$330.00	$47,520.00	Includes all data collects, data review and data processing as described in Exhibit A.
Cellular Communication Fees for two (2) Flow Monitors and three (3) Rain Gauges	180	$25.00	$4,500.00	Other existing monitors use landline telephone telemetry
IntelliServe web hosted access to four (4) flow meters and three (3) rain gauge **(per site per month)**	252	$50.00	$ 12,600.00	Unlimited Users and Alarming Capabilities
Total 3-Year Program Cost			**$115,740.00**	