

AGREEMENT FOR ENGINEERING SERVICES

This Agreement is entered into as of this 20th day of January, 2016, (hereinafter referred to as the "effective date of the Agreement"), by and between VS Engineering, Inc. hereinafter called the CONSULTANT located at 4275 N. High School Rd, Indianapolis, Indiana, 46254 and City of West Lafayette Redevelopment Commission, hereinafter called "Client," located at 222 N. Chauncey Avenue, Room 102, West Lafayette, Indiana, 47906.

WITNESSETH

WHEREAS, the Client is authorized to make and enter into all contracts or agreements which it determines are necessary or incidental to the performance of its duties and to the execution of the purposes of and the powers granted by the State of Indiana;

WHEREAS, in accordance with its procurement procedures, the Client has determined that it desires to hire THE CONSULTANT to perform Topographic Survey and prepare Preliminary Engineer's Report for Yeager Road between Sagamore Parkway West and Cumberland Avenue, as set forth herein; and

WHEREAS, THE CONSULTANT desires to assist the Client as provided herein;

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements herein set forth, and the undertakings of each party to the other, the Client and THE CONSULTANT, acting as aforesaid and each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

I. SCOPE OF SERVICES

THE CONSULTANT shall, in a professional manner, perform the services set forth in Exhibit A, attached to this Agreement.

II. COMPENSATION

A. THE CONSULTANT shall be compensated as set forth in Exhibit B for services rendered under this Agreement.

B. THE CONSULTANT shall promptly bill Client for all professional fees and expenses incurred on a monthly basis, and Client shall make payment in full to THE CONSULTANT within 30 days of the date of each invoice.

C. If the Client does not make payment in full to THE CONSULTANT within 90 days of the date of an invoice, THE CONSULTANT may suspend services upon 7 days written notice on the basis of non-performance on the part of the Client. When all payments due have been made, THE CONSULTANT will continue its services.

III. PERIOD OF PERFORMANCE

THE CONSULTANT agrees to commence performance of services hereunder upon receipt of a written "Notice to Proceed." Client recognizes that THE CONSULTANT's work and the completion thereof may be conditioned upon Client's review of THE CONSULTANT's work and/or the timely performance and

completion of certain activities by Client. THE CONSULTANT shall not be held liable for delays in performance of services hereunder that arise from causes beyond THE CONSULTANT's reasonable control and without its fault or negligence.

IV. CLIENT RESPONSIBILITY

- A. Client shall identify and coordinate all services to be performed hereunder.
- B. Client will verify that THE CONSULTANT has a complete understanding of the scope of services to be performed hereunder. Client shall provide THE CONSULTANT, in a timely fashion, all information reasonably required for the performance of the services by THE CONSULTANT to be performed hereunder.
- C. Client shall upon execution of the Agreement, designate **David M. Buck, P.E.**, as coordinator of the project described herein and of the professional services to be performed under this Agreement.
- D. Client shall provide THE CONSULTANT with reasonable access to the premises necessary for the performance of the services required under this Agreement.

V. INDEPENDENT CONTRACTOR

It is understood and agreed that THE CONSULTANT shall provide services under this Agreement as an independent contractor and that during the performance of services under this Agreement, THE CONSULTANT's employees shall not be considered employees of the Client.

VI. TERMINATION

It is hereby agreed that if either party should fail materially to fulfill its obligations under this Agreement, the other party may notify the breaching party of the intent to terminate the contract, in whole or in part, if the breach is not cured as provided in this Article. Such notice to the breaching party shall be given, in the manner required in Article XI of this Agreement, thirty (30) days prior to the effective date of the intended termination and shall identify the breach to be cured. The breaching party shall have thirty (30) days from receipt of the notice to cure the breach identified in the notice. The failure to cure the breach within thirty (30) days shall entitle the nonbreaching party to terminate the Agreement at the end of thirty (30) days. THE CONSULTANT shall use reasonable efforts to minimize fees and expenses upon giving or receiving notice of any intended termination. Client shall pay THE CONSULTANT all fees and expenses accrued for services rendered up to the effective date of any termination.

VII. INSURANCE

THE CONSULTANT shall maintain at THE CONSULTANT's own expense (1) Comprehensive General Liability Insurance, (2) Professional Liability Insurance for negligent acts, errors and omissions and (3) Worker's Compensation Insurance which insurance shall provide coverage for liabilities or claims for damages resulting from services performed or undertaken by THE CONSULTANT hereunder. Certificates of Insurance shall be furnished to Client upon request of Client.

VIII. CHANGES

Changes or amendments to this Agreement may be made only in writing signed by a duly authorized representative of each of the parties. Changes in scope of the project dictated by the Client and changing conditions of law or schedule delays or other events beyond THE CONSULTANT's reasonable control will require contract price and/or date of performance revisions to reflect such changes or delays.

IX. ASSIGNMENT AND DELEGATION

Neither party shall assign or delegate this Agreement or any right, duties or obligations hereunder to any person and/or entity without prior express written approval to the other.

X. TRADEMARK AND TRADE NAME

Notwithstanding any other provision of this Agreement, neither party shall have the right to use the trademark or trade name of the other without prior written approval of the other.

XI. NOTICES

All notices shall be in writing and be deemed to be given or made when delivered by hand or by regular U.S. mail as follows:

- A. Notices to THE CONSULTANT shall be addressed to: Sanjay B. Patel, P.E., President, 4275 N. High School Rd, Indianapolis, Indiana, 46254.
- B. Notices to the Client shall be addressed to: David M. Buck, P.E., Public Works Director, 222 N. Chauncey Avenue Room 102, West Lafayette, Indiana, 47906.

XII. GENERAL PROVISIONS

- A. Entire Agreement: This Agreement constitutes the entire agreement between the parties with respect to its subject matter and any prior agreements, understandings, or other matters, whether oral or written, are hereby merged into and made a part hereof, and are of no further force or effect. This agreement may be amended, changed, or supplemented only by written agreement executed by both of the parties hereto.
- B. Conflict: In the event of any conflict, ambiguity or inconsistency between this Agreement and any other document which may be annexed hereto, the terms of this Agreement shall govern.
- C. Waiver: No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of this agreement, or to exercise any option of election herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue and remain in full force and effect, and no waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be waiver of any prior or subsequent rights or remedy hereunder or at law. All

remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy available at law or in equity.

- D. Severability: If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the applications of such term or provisions of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- E. Captions: Captions and paragraph headings are inserted only as a matter of convenience and in no way define, limit, or describe the scope or intent of this Agreement.
- F. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

XIII. ENGAGING IN ACTIVITIES WITH IRAN

By signing this Agreement, THE CONSULTANT certifies that it is not engaged in investment activities in the country of Iran as forth in I.C.5-22-16.5.

XIV. PREVAILING PARTY – ATTORNEY FEES

Notwithstanding any term or condition in this Contract to the contrary, in the event litigation is commenced to enforce any term or condition of this Contract, the prevailing party shall be entitled to costs and expenses of litigation including a reasonable attorney fee.

XV. NON-DISCRIMINATION

THE CONSULTANT agrees:

- A. That in the hiring of employees for the performance of work under this Agreement or any subagreement hereunder, no consultant, or subconsultant, nor any person acting on behalf of such consultant, or subconsultant, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates;
- B. That no consultant, subconsultant, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, religion, color, sex, national origin or ancestry;
- C. That the Client may deduct from the amount payable to THE CONSULTANT a penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Agreement;
- D. If there is a second or any subsequent violation of the terms or conditions of this section, then this Agreement may be cancelled or terminated by the Client and all money due or to become due hereunder will be forfeited.

XVI. EMPLOYMENT ELIGIBILITY VERIFICATION

THE CONSULTANT affirms it does not knowingly employ unauthorized aliens. THE CONSULTANT shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in I.C. 22-5-1.7-3. THE CONSULTANT is not required to participate should the E-Verify program cease to exist. THE CONSULTANT shall not knowingly employ or contract with any unauthorized alien. THE CONSULTANT shall not retain an employee or contract with a person whom THE CONSULTANT learns is an unauthorized alien. THE CONSULTANT shall require all of its subconsultants, who perform work under this Agreement to certify to THE CONSULTANT that the subconsultant does not knowingly employ or contract with unauthorized aliens and that the subconsultant has enrolled and is participating in the E-Verify program. However, the subconsultant is not required to participate if the subconsultant is self-employed and does not employ any employees. THE CONSULTANT agrees to maintain this certification requirement throughout the duration of the term of its contract with a subconsultant.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have caused this agreement to be executed as of the date first written above.

CITY OF WEST LAFAYETTE
REDEVELOPMENT COMMISSION

VS ENGINEERING, INC.

By: _____
Lawrence T. Oates, President

By: Sanjay B. Patel
Sanjay B. Patel, P.E., President

(Date)

(Date)

Witness:

By: _____
Stephen B. Curtis, Secretary

By: _____
Andrew L. Bender, P.E., Vice President

(Date)

12/14/15

(Date)

EXHIBIT A

THE CONSULTANT is pleased to present this proposal to the Client for Topographic Survey and Preliminary Engineer's Report (PER) for the Yeager Road Reconstruction Project between Sagamore Parkway West and Cumberland Avenue.

PROJECT DESCRIPTION

THE CONSULTANT will provide services of qualified engineers, surveyors and support personnel as necessary to complete the scope of basic services outlined herein. Work items will include topographic survey, Preliminary Engineer's Report and Red Flag Investigation.

Yeager Road Reconstruction Project includes approximately 2,600' of new roadway between Sagamore Parkway West and Cumberland Avenue. Project will include 2 lanes roadway section, new curb and gutters, drainage improvements, sewer separation where feasible, ADA compliant sidewalks, and bike facilities. Pavement reconstruction at intersections located at Sagamore Parkway West and at Cumberland Avenue is not included in this project. However, signal modification/upgrade may be recommended at the Sagamore Parkway West intersection.

SCOPE OF WORK

A. FIELD TOPOGRAPHIC SURVEY

Survey Control:

Horizontal Control: THE CONSULTANT will establish necessary random horizontal control using Global Positioning Systems (GPS) or conventional optical traversing methods. Horizontal control values will be initially based upon the Indiana State Plane Coordinate system, West Zone, North American Datum 1983.

Vertical Control:

THE CONSULTANT will establish vertical control based upon North American Vertical Datum 1988.

Topography:

Topography will be electronically data collected and processed. The survey will extend along the center of Yeager Road from the north approach of Sagamore Parkway West to the center of Cumberland Avenue for a length of approximately 2,600 feet. Survey will also include portions of the following streets:

1. Beau Jardin Apartment Drive from the center of Yeager to 100 feet east
2. Kent Ave from the center of Yeager to 100 feet west
3. Eaton from the center of Yeager to 100 feet east
4. Montgomery St from the center of Yeager to 100 feet east and west

Cross-sections:

Road Cross-sections will be taken at 50-foot intervals and will extend 60 feet either side of the centerline of Yeager Road and Cumberland Avenue or to the face of dwellings, whichever is closest, and 30 feet either side of the centerlines of existing side streets.

Utilities:

Known underground utilities, which are marked in the field by the respective utility or by its representative or contractor, that fall within the survey limits, will be located. Above ground utilities and their appurtenances that fall within the survey limits will be located. Drainage/sewer structures found within the survey limits will be located and sized and connected to key offsite structures if they exist.

Other topographic features that fall within the survey limits will be located and will include:

1. Trees over 1.5 inches (Edge of tree-lines in heavily wooded areas)
2. Significant landscaping and fences
3. Driveways, walks and their surface types
4. Buildings and dwellings
5. Roadway surface types
6. Utility installations if at the surface or otherwise marked

Alignment:

Survey alignment will be established from the existing pavement location in the absence of predefined alignments, which are recoverable, provided by the Client or the Tippecanoe County Engineer or County Surveyor.

Existing Right of Way Determination:

Fee parcel lines established in this survey will be based upon record documents found in the Tippecanoe County Recorder's Office and/or other public sources, i.e., GIS.

THE CONSULTANT will establish granted Right of Way if documented with the Tippecanoe County Recorder's Office or by other entities with legal authority to establish Rights of Way, or from deeds or right of way grants provided to THE CONSULTANT by the Client.

THE CONSULTANT will make every effort to recover and/or re-establish needed section corners as defined in Title 865.

I.A.C. 1-12 (Rule 12). THE CONSULTANT believes it may be necessary to recover or re-establish section corners which control the location of the affected fee parcels. Some of these corners may be located as far as one half mile from the site.

Assumptions/Conditions:

The survey scope of services is based on the following assumptions:

1. THE CONSULTANT will have unrestricted access to the survey site and adjoining lands.
2. The limits of the survey will be as described in Exhibit "Survey Limits".
3. The Client will provide THE CONSULTANT with plans and any right of way documents which might cover area of survey.

B. RED FLAG INVESTIGATION DOCUMENT

Red Flag Investigation will be done to assess project's potential for impacts upon infrastructure, ecological resources, social and cultural resources and hazardous materials. This information gathered will be used

as a first-step screening tool to identify and eliminate project alternatives which may be fatally flawed on environmental grounds, or, to identify the need to adjust project designs to eliminate fatal flaws if possible. Services to be provided include:

1. Perform field reconnaissance to assess and evaluate existing conditions within the project area, and to collect information on infrastructure, ecological resources, social and cultural resources and hazardous materials.
2. Collect available secondary source documentation pertaining to infrastructure, ecological resources, social and cultural resources and hazardous materials. Such documentation may include or pertain to resources and issues such as historic sites/districts and architecturally significant structures (National Register of Historic Places and county interim report), wetlands (National Wetland Inventory), waterways (rivers, streams, ditches and other bodies of water), threatened and endangered species (US Fish and Wildlife Service and IDNR) , land use, Section 6(f) resources, potential Section 4(f) resources, public water supplies (IDEM, IDNR, Division of Water), and Environmental Justice demographic data (US Bureau of the Census), among others.
3. Prepare preliminary resource information about the project and project area including supporting maps and photographs (aerial and ground), and compile an agency coordination package.
4. Perform early coordination with natural resource and regulatory agencies, as appropriate, and document responses from such agencies pertaining to resources or issues of concern.
5. Perform a fatal flaw evaluation and preparation of an environmental screening summary documenting environmental challenges within the project study area.

C. PRELIMINARY ENGINEER'S REPORT (PER)

THE CONSULTANT will prepare PER for review and approval by the Client. THE CONSULTANT will evaluate up to a maximum of two (2) design alternatives for the reconstruction of Yeager Road between Sagamore Parkway West and Cumberland Avenue. The alternatives will be established to address the identified project needs and will also evaluate opportunities or constraints due to topography, existing right of way, utilities, and environmental resources. It is anticipated that existing horizontal and vertical alignments will be maintained as much as possible.

The PER will constitute the following:

1. Design criteria to be used for further project development.
2. Schematics depicting typical sections.
3. Preliminary Plan & Profile sheets along Yeager road depicting lane widths, horizontal and vertical alignments, preliminary construction limits, ADA compliant sidewalks, trails, bike lanes, parking lanes, pavement markings and preliminary right-of-way.
4. Typical sections for Maintenance of Traffic schemes.
5. Preliminary Drainage evaluation.
6. Right of Way impacts and requirements.
7. Identify Environmental issues/concerns
8. Preliminary coordination with utility companies to determine existing utility locations, utility contacts and potential conflicts.

9. Project schedule.
10. Estimate of quantities.
11. Opinion of probable construction costs.
12. 24 hour Traffic Volume counts on Yeager with AM and PM turning movements at Sagamore Parkway West.

D. ADDITIONAL SERVICES

Services that may be required in the future for the project completion, but are not included in this scope of services, can be performed by THE CONSULTANT upon execution of a supplemental agreement. These services include:

1. Traffic data and traffic capacity analysis (level of service and operational analyses)
2. Crash data and analysis
3. Wetland Delineation
4. Stakeholder Meetings and or Public Information Meeting
5. Location Control Route Survey Plat
6. Right of Way Engineering and acquisition services
7. Detailed Design and Construction bid services
8. Geotechnical Investigation and/or Pavement Coring
9. Construction Observation

E. DELIVERABLES

THE CONSULTANT shall deliver to the Client the following deliverables:

1. Three (3) copies of the PER
2. One (1) electronic copy of the PER in a "pdf" format

F. SCHEDULE

- | | |
|----------------------------------|----------------------------------|
| 1. Field Survey | 90 days after Notice to Proceed |
| 2. Preliminary Engineer's Report | 120 days after Notice to Proceed |

EXHIBIT B

In consideration for the scope of services stated in Exhibit A, THE CONSULTANT requests to be compensated on a Lump Sum basis as follows:

| Description | Amount |
|-------------------------------|---------------------|
| Topographic Survey | \$ 23,670.00 |
| Traffic Data Collection | 4,250.00 |
| Engineering Assessment Report | 12,500.00 |
| Preliminary Road Layout | 16,300.00 |
| TOTAL | \$ 56,720.00 |