



More than a Project™

January 27, 2021

City of Auburn
c/o Todd Sattison, WPC Superintendent
2010 S. Wayne Street
Auburn, IN 46407

Re: Proposal for Professional Services
MS4 Permit Renewal Services

Dear Mr. Sattison:

We are pleased to present this Proposal to the City of Auburn (hereinafter referred to as OWNER) to provide Professional Services in conjunction with the update of the OWNER's Municipal Separate Storm Sewer System (MS4) Permit and Program.

I. PROJECT DESCRIPTION

Indiana Department of Environmental Management (IDEM) is eliminating the current MS4 permit-by-rule and adopting an MS4 General Permit. This will require the OWNER to alter their MS4 program to comply with the new permit requirements. The OWNER also wishes to use this opportunity improve the usefulness and efficiency of their MS4 program and involve stakeholders and City Departments in program development and implementation. Herein referred to as PROJECT.

II. SCOPE OF PROFESSIONAL SERVICES – BASIC SERVICES

Wessler Engineering, Inc. (ENGINEER) shall provide the following Professional Services:

- A. Review the requirements included in the MS4 General Permit (MS4GP). Once the new permit becomes effective, provide a summary plan for meeting the new requirements.
- B. Notice of Intent (NOI) preparation and submittal within 90 days of the effective date of the MS4GP (formerly Part A).
- C. Complete a Water Quality Characterization Report (WQCR) for receiving waters identified in the NOI (formerly Part B). Include a land use assessment, inventory of stormwater quality structural and nonstructural management measures, identification of receiving water impairments and sensitive areas. To be submitted by the deadline established in the MS4GP.

- D. Review the public education and outreach requirements and update the Stormwater Quality Management Plan (SWQMP) to incorporate the new requirements and implementation timetable.
- E. Review the public participation and involvement requirements and update the SWQMP to incorporate the new requirements and implementation timetable.
- F. Review the illicit discharge detection and elimination (IDDE) requirements and update the SWQMP to include standard operating procedures and implementation timetable.
- G. Review the stormwater system mapping requirements and provide recommendations and a summary to the OWNER which includes the implementation of the MS4 jurisdictional boundaries in a GIS format by the end of the first year of permit coverage.
- H. Review the construction and post-construction requirements and update the SWQMP to incorporate the new requirements, written procedures, and implementation timetable.
- I. Review the municipal operations pollution prevention and good housekeeping requirements and update the SWQMP to incorporate the new requirements and implementation timetable.
- J. Develop a written operation and maintenance plan for MS4 owned and/or operated stormwater infrastructure.
- K. Review and provide technical language suggestions to update the construction, post-construction, and IDDE ordinances within 24 months of permit coverage.
- L. Coordinate with the Soil and Water Conservation District to discuss and incorporate implementation of new construction and post-construction requirements from the MS4GP as requested.
- M. Develop a training plan for MS4 staff, construction contractors/builders, and reviewers and inspectors.
- N. Review and update standard operating procedures for municipal operations pollution prevention and good housekeeping.
- O. Assist with preparing for and attend one IDEM audit on the Minimum Control Measures (MCMs).
- P. Assist with the gathering of information for the first Annual Report.

- Q. Organize and conduct up to two (2) Storm Water Planning Team meetings to review the implementation of the SWQMP. Team members include representatives from other City of Auburn Departments and county agencies key to the implementation of the MS4 Program.
- R. Conduct a site compliance evaluation at municipal facilities to ensure that storm water BMPs and Storm Water Pollution Prevention Plans (SWPPPs) are implemented and updated per MS4GPrequirements. Facilities include Water Pollution Control Facility, Water Department, Electric Department, Street Department, and other facilities that have activities with the potential to impact stormwater. Following the evaluation, provide a summary report and list of recommendations for improvement.

III. ADDITIONAL PROFESSIONAL SERVICES

If authorized in writing by the OWNER, ENGINEER agrees to furnish, or obtain from others, Additional Professional Services in conjunction with the PROJECT.

IV. COMPENSATION

In accordance with the Standard Terms and Conditions of the AGREEMENT, ENGINEER shall provide the Professional Services for which OWNER shall compensate ENGINEER as follows:

- A. Compensation for Professional Services described in Article II. shall be on a time and materials basis in the not-to-exceed amount of \$30,000.00.
- B. Compensation for Additional Services, if requested in writing, shall be on a lump sum fee or time and materials basis as mutually agreed to by OWNER and ENGINEER.
- C. Professional Services performed on a time and materials basis shall be invoiced by ENGINEER monthly based upon the actual hours and reimbursable expenses incurred in performing the services per ENGINEER's Hourly Rate and Reimbursement Expense Schedule in effect at the time the services are performed.

V. SCHEDULE

ENGINEER will develop a schedule based on the deadlines established in the MS4 General Permit and OWNER's priorities. Because of unknowns associated with the MS4 General Permit effective date and limitations on in-person meetings, the schedule will maintain some flexibility.

VI. STANDARD TERMS AND CONDITIONS

The Standard Terms and Conditions of this Proposal are included as Attachment No. 1.



If this Proposal meets with your approval, it will become a Professional Services AGREEMENT by signing in the space provided below and will serve as our written Notice-to-Proceed upon the signature date. Please return one fully executed copy for our file and record.

This AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same AGREEMENT. An electronic, telecopied, or facsimile signature shall be equivalent to and as binding as an original signature.

IN WITNESS WHEREOF, the parties have made and executed this Professional Services AGREEMENT, this 11 day of February, 2021.

ENGINEER
WESSLER ENGINEERING, INC.

OWNER
CITY OF AUBURN, INDIANA

Mary K. Atkins
Mary K. Atkins, P.E., CRES, LEED AP
Vice President

Signature: [Signature]
Print Name: Michael D. Ley

Title: Mayor

Attest: Amy L. Harvell
Amy L. Harvell, CHMM, RPC
Environmental Services Sr. Project
Manager

Attest: Patricia M. Miller
Print Name: Patricia M. Miller

Title: Clerk-Treasurer

Date: 01/27/2021

Date: 2-11-21

ADDRESS FOR GIVING NOTICE:
Wessler Engineering
6219 S. East Street
Indianapolis, IN 46227

ADDRESS FOR GIVING NOTICE:
City of Auburn
2010 S. Wayne Street
Auburn, IN 46407

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Attachments: No. 1 – Standard Terms and Conditions
No. 2 – 2021 Hourly Rate and Reimbursable Expense Schedule
No. 3 – E-Verify Affidavit
No. 4 – Indiana Iran Investment Certification



ATTACHMENT NO. 1 STANDARD TERMS AND CONDITIONS

1. Basic Agreement

A. Engineer shall provide, or cause to be provided, the Basic Services as described in this Agreement, and Owner shall pay Engineer for such Services.

2. Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses, if any.

3. Payment Procedures

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

4. Design without Construction Phase Services

A. If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, then (1) Engineer's services under this Agreement shall be deemed complete no later than the end of the Bidding or Negotiating Phase; (2) Engineer shall have no design or shop drawing review obligations during construction; (3) Owner assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services; and (4) Owner waives any claims against the Engineer that may be connected in any way thereto.

5. Termination

A. This Agreement may be terminated by either party by thirty days written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party.

B. Owner may terminate or suspend performance of this Agreement for Owner's convenience upon written notice to Engineer. Engineer shall terminate or suspend performance of the Services on a schedule acceptable to Owner, and Owner shall pay Engineer for all the Services performed plus termination or suspension expenses. Upon restart of suspended Services, an equitable adjustment shall be made to Engineer's compensation and the Project schedule.

6. Owner's Responsibilities

A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and specify any design and construction standards that Owner requires be included in the Drawings and Specifications.

B. Designate in writing a person authorized to act as the Owner's representative. The Owner or his representative shall receive and examine documents submitted by the Engineer, interpret and define the Owner's policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of the Engineer's services.

C. Furnish to the Engineer all available existing information for service and utilities locations, easements, right-of-way, encroachments, and zoning and deed restrictions.

D. Provide for full and free access for the Engineer to enter upon all property required for the performance of the Engineer's services under this Agreement.

E. Provide legal, accounting and insurance counseling services as necessary for the Project.

F. Pay for placement and payment for advertisement for Bids in appropriate publications, and all permit fees for agency approval of the Project.

G. Furnish above services at the Owner's expense and in such manner that the Engineer may rely upon them in the performance of his services under this Agreement.

H. Give prompt notice to the Engineer whenever the Owner observes or otherwise becomes aware of any defect in the Project or other event, which may substantially affect the Engineer's performance of services under this Agreement.

7. Dispute Resolution

A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Mediation or exercising their rights under law.

B. If Mediation is invoked, the Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or

relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually agreed upon party. If such mediation is unsuccessful in resolving the Dispute, then (a) the parties may mutually agree to a dispute resolution of their choice, or (b) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

8. Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 8.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

9. General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. This Agreement is to be governed by the laws of the State of Indiana.

C. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

D. Not Used.

E. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$500,000.00.

F. Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or by the other's employees and agents.

G. The Engineer agrees to provide and maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with Engineer's business requirements. Certificates evidencing such coverage will be provided to Owner upon request. For projects involving construction, Owner agrees to require its construction contractor(s), if any, to include Engineer as an additional insured on its policies relating to the Project.

H. The Engineer agrees to maintain records of payroll costs, including fringe benefit costs, and actual out-of-pocket costs on a generally recognized accounting basis and shall be available to the Owner during the life of this Agreement at mutually convenient times.

I. In the event any provisions of this Agreement shall be held to be invalid and non-enforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

10. Subconsultants

A. Subconsultants to the Engineer are listed in the Agreement. Engineer may add, remove, or replace Subconsultants for reasonable cause with prior written approval of the Owner. In the event Owner does not approve the addition or the replacement of a Subconsultant listed in the Agreement, and Engineer cannot reasonably perform the Services intended for said Subconsultant, Owner agrees to contract directly with an entity qualified and capable of performing said Services. Owner further releases Engineer from all liability associated with the performance of said entity's Services.

ATTACHMENT NO. 2

2021 HOURLY RATE and REIMBURSABLE EXPENSE SCHEDULE

<u>Position</u>	<u>Hourly Rate*</u>
Principal Engineer	\$235
Senior Project Manager I/II	\$195/\$220
Senior Project Engineer I/II	\$195/\$220
Project Manager I/II	\$155/\$165
Assistant Project Manager	\$130
Project Engineer I/II/III/IV	\$120/\$130/\$155/\$165
Engineer	\$105
Electrical/Control System Senior Project Manager I/II	\$200/\$225
Electrical/Control System Senior Project Engineer I/II	\$200/\$225
Electrical Project Manager I/II	\$160/\$170
Electrical Project Engineer I/II/III/IV	\$125/\$135/\$160/\$170
Control System Engineer I/II/III/IV	\$115/\$135/\$155/\$170
Environmental Services Senior Project Manager I	\$155
Environmental Services Project Manager I/II	\$130/\$140
Environmental Services Assistant Project Manager	\$105
Environmental Scientist I/II	\$80/\$95
CAD Manager I/II	\$125/\$160
GIS Manager I/II	\$120/\$150
Senior Designer I/II	\$115/\$130
Designer	\$105
GIS Technician	\$90
Technician I/II/III/IV	\$65/\$85/\$95/\$105
Senior Resident Project Representative I/II	\$115/\$125
Resident Project Representative I/II/III/IV	\$65/\$85/\$95/\$105
Field Services Manager I/II	\$120/\$135
Registered/Professional Land Surveyor	\$180
Survey Manager	\$130
Survey Crew Chief I/II	\$90/\$100
Project Analyst I/II	\$100/\$110
Project Coordinator	\$90
Project Administrator	\$60

Reimbursable Expenses shall be charged as follows:

<u>Item and Unit</u>		<u>Unit Cost</u>
Mileage (per mile)		At current IRS published rate
Copies:(each) Black & White	8.5"x11" / 11"x17"	\$0.12
	24"x36"	\$1.00
Color	8.5"x11" / 11"x17"	\$0.20/\$0.40
Plots-Bond: (each)	12"x18" / 24"x36"	\$0.50/\$1.00
GPS Survey Equipment/Robotic Total Station/Pole Camera		\$15.00 per hour
Postage/shipping/freight, Lodging and Per Diems		At Cost
Subcontractor/Subconsultant fees		Cost + 10%
eCommunication Construction Software License through Eastern Engineering (per project)		At Cost

*Expert Witness Services (Court Hearings or Testimony, Depositions, Arbitration or Mediation Hearings) shall be charged at 150% of the Hourly Rate listed in this Schedule.

This Schedule is subject to change.

January 1, 2021

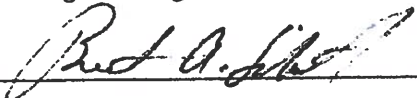
ATTACHMENT NO. 3

E-Verify Affidavit

Pursuant to Indiana Code 22-5-1.7-11, the Engineer entering into a contract with the Owner is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program. The Engineer is not required to verify the work eligibility status of all its newly hired employees through the E-Verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Engineer, being first duly sworn, deposes and states that the Engineer does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into its contract with the Owner, the undersigned Engineer will enroll in and agrees to verify the work eligibility status of all its new hired employees through the E-Verify program.

(Engineer): Wessler Engineering, Inc.

By (Written Signature): 

(Printed Name): Brent A. Siebenthal

(Title): President

Important — Notary Signature and Seal Required in the Space Below

STATE OF INDIANA

SS:

COUNTY OF MARION

Subscribed and sworn to before me this 4th day of January, 2021.



(Signed) 
Dawn M. Keyler

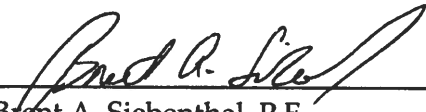
My commission expires September 12, 2021
Residing in Marion County, State of Indiana

ATTACHMENT NO. 4

INDIANA IRAN INVESTMENT CERTIFICATION

I, Brent A. Siebenthal, the duly authorized representative of Wessler Engineering, Inc., certify under penalty of perjury that Wessler Engineering, Inc. does not engage in investment activities in Iran as defined by I.C. 5-22-16.5.

Wessler Engineering, Inc.

By: 
Brent A. Siebenthal, P.E.
President