

CONSULTING CONTRACT

Contract #000000000000000000063978

This Contract ("this Contract") is made and entered into effective as of the date of approval by the Indiana Attorney General affixed to this Contract by and between the State of Indiana ("State"), acting by and through the Indiana Department of Transportation ("INDOT"), and HNTB INDIANA, INC (the "CONSULTANT").

WITNESSETH

WHEREAS, INDOT wishes to hire the CONSULTANT to provide Project Development Services for I 64, HMA Overlay, Preventive Maintenance, From 3.21 miles E of SR 162 to 0.26 mi W of SR145, in Dubois, Perry, Spencer Co. RP 065+092 to RP 071+080, Des No.: 2100257.

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

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

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

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

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

SECTION III TERM. The term of this Contract shall be from the date of the Attorney General signature affixed to this Contract until December 30, 2026.

SECTION IV COMPENSATION. INDOT shall pay the CONSULTANT for the services performed under this Contract in accordance with **Appendix "D"** which is attached and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed **\$904,500.00**.

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

SECTION VI GENERAL PROVISIONS

"Subconsultant" as used in this contract refers to a subcontractor of the CONSULTANT performing services under this contract.

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for the purpose of making

inspection, audit, examination, excerpts and transcriptions by the recipient and sub recipient, as those terms are defined in 2 CFR §200.86 and §200.93 respectively, INDOT, the Federal Highway Administration, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States or any of their duly authorized representatives, and copies thereof shall be furnished free of charge, if requested. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, INDOT may release or make available to the agency any working papers from an audit performed by INDOT of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, correspondence, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. Assignment: Successors.

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

B. Any substitution of SUB-CONSULTANTS and/or disadvantaged business enterprises must first be approved and receive written authorization of INDOT's the Consultant Selection Review Committee and INDOT's Economic Opportunity Division Director, respectively, or their respective designee.

3. Audit. The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, et seq. and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

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

5. Certification for Federal-Aid Contracts Lobbying Activities.

A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to INDOT prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- I. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- II. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

6. Changes in Work. The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by INDOT. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.

7. Compliance with Laws.

A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract shall be reviewed by INDOT and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.

B. The CONSULTANT represents to INDOT that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to INDOT prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:

- i. *Required State of Indiana Payments.* Neither the CONSULTANT nor the CONSULTANT'S principal(s) are presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. Further, the CONSULTANT agrees that any payments in arrears and currently due to the State of Indiana may be withheld from payments due to the CONSULTANT. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the CONSULTANT becomes current in its payments and has submitted proof of such payment to INDOT.
- ii. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending and agrees that it will immediately notify INDOT of any such actions. During the term of such actions, CONSULTANT agrees that INDOT may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- iii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable

licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iv. *Work Specific Standards.* The CONSULTANT and its SUBCONSULTANTS, if any, have obtained, will obtain and/or will maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for INDOT.
- v. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
- vi. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify INDOT of any such actions. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONSULTANT or who has managerial or supervisory responsibilities for the Services.
- vii. *Debarment and Suspension of any SUBCONSULTANTS.* The CONSULTANT's SUBCONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties of costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the State if any SUBCONSULTANT becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the SUBCONSULTANT for work to be performed under this Contract.

C. *Ethics.* The CONSULTANT and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the CONSULTANT has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the CONSULTANT shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this contract.** If the Contractor is not familiar with these ethical requirements, the CONSULTANT should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the CONSULTANT or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the CONSULTANT. In addition, the CONSULTANT may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

D. *Telephone Solicitation.* As required by IC 5-22-3-7: (1) the CONSULTANT and any principals of the CONSULTANT certify that (A) the CONSULTANT, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation of Consumers], (ii) IC 24-5-12 [Telephone Solicitations], or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the CONSULTANT will not violate the terms of IC 24-4.7 for

the duration of the Contract, even if IC 24-4.7 is preempted by federal law. (2) The CONSULTANT and any principals of the CONSULTANT certify that an affiliate or principal of the CONSULTANT and any agent acting on behalf of the CONSULTANT or on behalf of an affiliate or principal of the CONSULTANT: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

E. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT'S violation of any of Section 7(A) through 7(D), INDOT may, at its sole discretion, do any one or more of the following:

- i. terminate this Contract; or
- ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract; or
- iii. bar the CONSULTANT from contracting with the State of Indiana.

F. *Disputes.* If a dispute exists as to the CONSULTANT's liability or guilt in any action initiated by the State of Indiana or its agencies, and INDOT decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to INDOT. A determination by INDOT under this Section 7.F shall be final and binding on the parties and not subject to administrative review. Any payments INDOT may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.

8. Condition of Payment. The CONSULTANT must perform all Services under this Contract to INDOT's reasonable satisfaction, as determined at the discretion of INDOT and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. INDOT will not pay for work not performed to INDOT's reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, "deficiencies") until all deficiencies are remedied in a timely manner.

9. Confidentiality of State Information.

A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without INDOT's prior written consent.

B. The parties acknowledge that the Services to be performed by the CONSULTANT for INDOT under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by INDOT in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and INDOT agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

10. Prompt Payment. The CONSULTANT agrees to pay each subconsultant under this Contract for satisfactory performance of its contract no later than ten (10) business days from the receipt of each payment the CONSULTANT receives from INDOT. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of INDOT. The explanation from the CONSULTANT shall be made in writing to INDOT.

This clause applies to both DBE and non-DBE subconsultants. Failure to comply with this clause shall constitute a material breach of this Contract and may result in sanctions under this Contract.

11. [Reserved]

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

13. DBE Requirements.

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

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

B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and approved by INDOT's Economic Opportunity Division.

14. Disputes

A. Should any disputes arise with respect to this Contract, the CONSULTANT and INDOT agree to act promptly and in good faith to resolve such disputes in accordance with this Section 14. Time is of the essence in the resolution of disputes.

B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by INDOT or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.

C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing according to the following procedure:

- i. The parties agree to resolve such matters through submission of the dispute to the Commissioner of the Indiana Department of Administration (or his or her designee) ("IDOA Commissioner"). The submission shall include a written description of the dispute, any supporting documentation and each party's respective recommended resolution of such dispute. The IDOA Commissioner shall make a written decision and mail or otherwise furnish a copy thereof to the CONSULTANT and INDOT within ten (10) business days after presentation of such dispute for action. The IDOA Commissioner's decision shall be final and conclusive unless either party provides a written notice of appeal to the Commissioner within ten (10) business days after receipt of the IDOA Commissioner's decision. Within ten (10) business days of receipt by the IDOA Commissioner of a written request for appeal, the IDOA Commissioner may reconsider its decision. The IDOA Commissioner may then choose to reconsider the determination and make a separate determination or may request that the parties submit to a mediation procedure. If the IDOA Commissioner chooses not to reconsider its decision or fails to respond within ten (10) business days, then the dispute may be submitted to an Indiana court of competent jurisdiction.
- ii. The State may withhold payments on disputed items pending resolution of the dispute.

15. Drug-Free Workplace Certification.

A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the Indiana Department of Transportation and the Indiana Department of Administration within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

B. In addition to the provisions of the above paragraphs, if the total Contract amount set forth in this Contract is in excess of \$25,000.00, the CONSULTANT hereby further agrees that this Contract is expressly subject to the terms, conditions and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000.00. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the CONSULTANT and made a part of the contract or agreement as part of the contract documents.

- C. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
- i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled

substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

- ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- iii. Notifying all employees in the statement required by subparagraph 15.C.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision 15.C.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 15.C.iii(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 15.C.i through 15.C.v above.

16. Employment Option. If INDOT determines that it would be in the State's best interest to hire an employee of the CONSULTANT, the CONSULTANT will release the selected employee from any non-compete agreements that may be in effect. This release will be at no cost to the State or the employee.

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

18. Funding Cancellation Clause. When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of SBA that funds are not appropriated or otherwise available to support

continuation of performance shall be final and conclusive. The CONSULTANT may seek recovery from the State for any amounts unpaid for Services rendered or goods delivered through the date of cancellation.

19. Governing Laws. This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana. The parties acknowledge that the governing law includes I.C. 8-23-2-12.5. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.

20. IC 8-23-2-12.5. With respect to liability and indemnification issues, this Contract is subject to IC 8-23-2-12.5.

21. Indemnification. The CONSULTANT agrees to indemnify the State of Indiana, INDOT, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-23-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12.5. INDOT shall not provide such indemnification to the CONSULTANT.

22. Independent Contractor. Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.

23. Insurance - Liability for Damages.

A. Subject to I.C. 8-23-2-12.5, the CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from INDOT. Acceptance of the Services by INDOT shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by INDOT on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANTS failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to INDOT, or to notify INDOT of any errors or deficiencies which the CONSULTANT knew or should have known existed.

B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with INDOT when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.

C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the State as a result of any negligent act, error or omission of the CONSULTANT, and for the State's losses or costs to repair or remedy construction.

Acceptance of the Services by INDOT shall not relieve the CONSULTANT of responsibility for subsequent correction.

D. The CONSULTANT shall be required to maintain in full force and effect, from the date of the first authorization to proceed until INDOT's acceptance of the work product, at least the following minimum coverage. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.

E. The State of Indiana, INDOT, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 21 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.

F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to INDOT prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling INDOT to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6, 12.8 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 -- 10.4, 11.1, 13.1, 14.1 -- 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

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

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

III. Automobile Liability

The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The

term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

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

IV. Watercraft Liability (When Applicable)

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

V. Aircraft Liability (When Applicable)

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

24. Progress Reports. The CONSULTANT shall submit progress reports to INDOT upon request. The report shall be oral, in person or by phone, unless INDOT, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring INDOT that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

25. Merger and Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within

this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

26. Non-Discrimination

A. This Contract is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the CONSULTANT or any subcontractor.

Under IC 22-9-1-10 CONSULTANT covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran.

B. The CONSULTANT understands that INDOT is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

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

C. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

1. Compliance with Regulations: The CONSULTANT shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, and the Federal Highway Administration Title 23, CFR Part 200 as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
2. Nondiscrimination: The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, age, national origin, religion, disability, ancestry, income status, limited English proficiency or status as a veteran in the selection and retention of subcontractors, including procurements of

materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in **Appendix B** of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, age, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
 4. Information and Reports: The CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, documents, papers, correspondence, records, accounts, other sources of information, and its facilities as may be determined by the recipient, the subrecipient, the Indiana Department of Transportation, the Federal Highway Administration, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States or any of their duly authorized representatives, to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses furnish this information, the CONSULTANT shall so certify to the recipient, the subrecipient, the Indiana Department of Transportation, the Federal Highway Administration, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States or any of their duly authorized representatives as appropriate, and shall set forth what efforts it has made to obtain the information.
 5. Sanctions for Noncompliance: In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of Transportation shall impose such contract sanctions as it, the Federal Highway Administration, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives may determine to be appropriate, including, but not limited to: (a) withholding payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
 6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraph C, Section 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.
- D. The CONSULTANT shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the CONSULTANT may request the United States of

America to enter into such litigation to protect the interests of the United States of America.

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

A. Notices to the State shall be sent to:
Contract Administrator
Indiana Department of Transportation
100 N Senate Avenue, Room N725
Indianapolis, IN 46204

With a copy to:
Chief Legal Counsel and Deputy Commissioner
Indiana Department of Transportation
100 N. Senate Avenue, Room N758
Indianapolis, IN 46204

B. Notices to the CONSULTANT shall be sent to:
HNTB Indiana, Inc.
111 monument Circle Suite 1200
Indianapolis, IN, 46204

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

C. As required by IC 4-13-2-14.8, payments to the CONSULTANT shall be made via electronic funds transfer in accordance with instructions filed by the CONSULTANT with the Indiana Auditor of State.

28. Order of Precedence; Incorporation by Reference. Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract, (2) attachments prepared by INDOT, (3) RFP document, (4) the CONSULTANT's response to the RFP document, and (5) attachments prepared by the CONSULTANT. All of the foregoing is incorporated fully by reference.

29. Ownership of Documents and Materials. All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to INDOT and all such materials ("Work Product") will be the property of INDOT. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by INDOT. Use of these materials, other than related to contract performance by the CONSULTANT, without INDOT's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services

provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide INDOT full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in **Appendix "A"** on other projects without the express written consent of the CONSULTANT or as provided in **Appendix "A"**. INDOT acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.

30. Payments. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the CONSULTANT in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or Services that are the subject of this Contract except as permitted by IC 4-13-2-20.

31. Penalties, Interest and Attorney's Fees. INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.

32. Pollution Control Requirements. If this Contract is for \$100,000 or more, the CONSULTANT:

- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
- ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
- iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.

33. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

34. Status of Claims. The CONSULTANT shall give prompt written notice to INDOT any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping INDOT currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:

Chief Counsel
Indiana Department of Transportation
100 North Senate Avenue, Room N758
Indianapolis, IN 46204-2249

35. Sub-consultant Acknowledgement. The CONSULTANT agrees and represents and warrants to the State of Indiana, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, identical to the form attached as **Appendix "E"** of this Contract, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to INDOT for approval prior to performance of the Services by any SUB-CONSULTANT.

36. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.

37. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.

38. Termination for Convenience.

- A. INDOT may terminate, in whole or in part, whenever, for any reason INDOT determines that such termination is in its best interests. Termination or partial termination of Services shall be effected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. INDOT will not be liable for Services performed after the effective date of termination.
- B. If INDOT terminates or partially terminates this Contract for any reason regardless of whether for convenience or for default in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to INDOT. In the event of the failure by the CONSULTANT to make such delivery upon demand, the CONSULTANT shall pay to INDOT any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

39. Termination for Default.

- A. With the provision of twenty (20) days written notice to the CONSULTANT, INDOT may terminate this Contract in whole or in part if (i) the CONSULTANT fails to:
 - 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 - 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 - 3. Make progress so as to endanger performance of this Contract; or
 - 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
- (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.

- B. If INDOT terminates this Contract in whole or in part, it may acquire, under the terms and in the manner INDOT considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to INDOT for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. INDOT shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and INDOT shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 14). INDOT may withhold from the agreed upon price for Services any sum INDOT determine necessary to protect INDOT against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of INDOT in this Contract are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by INDOT.** If the CONSULTANT believes INDOT is in default of this Contract, it shall provide written notice immediately to INDOT describing such default. If INDOT fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses *if Ordered by a court*, provided that if such cure is not reasonably achievable in such time, INDOT shall have up to one hundred twenty (120) days from such notice to effect such cure if INDOT promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the State or INDOT.

40. Travel. No expenses for travel will be reimbursed unless specifically permitted under the scope of Services or consideration provisions of this Contract. Expenditures made by the CONSULTANT for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular.

41. Waiver of Rights. No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither INDOT's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to INDOT in accordance with applicable law for all damages to INDOT caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.

42. Work Standards/Conflicts of Interest.

- A. The CONSULTANT shall understand and utilize all relevant INDOT standards including the Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in **Appendix "A"** or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
- B. The CONSULTANT agrees to comply with the "Indiana Department of Transportation Consultant Conflict of Interest Policy" (Conflict of Interest Policy) attached hereto as

Appendix "F". Failure to comply with the Conflict of Interest Policy may be grounds for INDOT to terminate this Contract under either Section 38 (Termination for Convenience) or Section 39 (Termination for Default) at INDOT's discretion.

43. No Third-Party Beneficiaries.

This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.

44. Employment Eligibility Verification

The Consultant affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

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

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

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

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

45. Prohibited Telecommunications and Video Surveillance Equipment and Services.

In accordance with federal regulations (including 2 CFR 200.216 and 2 CFR 200.471), the Contractor is prohibited from purchasing, procuring, obtaining, using, or installing any telecommunication or video surveillance equipment, services, or systems produced by:

(A) Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), OR

(B) Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities), for any purpose to fulfill its obligations under this Contract. The Contractor shall be responsible to ensure that any subcontractors are bound by and comply with the terms of this provision. Breach of this provision shall be considered a material breach of this Contract.

46. Assignment of Antitrust Claims.

The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Consultant, or that the undersigned is the properly authorized representative, agent, member or officer of the Consultant. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Consultant, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the Consultant attests to compliance with the disclosure requirements in IC 4-2-6-10.5.

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database: <https://secure.in.gov/apps/idoa/contractsearch/>.

In Witness Whereof, the Consultant and the State have, through their duly authorized representatives, entered into this Contract. The parties having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

HNTB Indiana, Inc.

DocuSigned by:
 By: *David McDougall*
 61A02CAC78714F3...

Title: Sr. Vice President

Date: 6/29/2022 | 12:55 PDT

Indiana Department of Transportation

DocuSigned by:
 By: *Lindsay A.R. Arist*
 3B12F143ED5848E...

Title: Deputy Commissioner

Date: 6/30/2022 | 08:32 EDT

Electronically Approved by: Department of Administration By: (for) Rebecca Holw erda, Commissioner	
Electronically Approved by: State Budget Agency By: (for) Zachary Q. Jackson, Director	Electronically Approved as to Form and Legality by: Office of the Attorney General By: (for) Theodore E Rokita, Attorney General

APPENDIX "A"

Services to be furnished by CONSULTANT:

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

Project Description

The purpose of this project is to restore the ride and provide protection from further deterioration of the pavement structure by improving the existing pavement condition along I-64 from 3.21 miles east of SR 162 to 0.26 miles west of SR 145, approximately 5.79 miles in length.

Roadway Design:

This segment of I-64 is a Rural Freeway. It is assumed this project will be designed using 3R criteria outlined in Chapter 54 of the Indiana Design Manual (IDM). The proposed recommended treatment for this project is a preventive maintenance (PM) overlay. Partial and full depth patching is anticipated throughout the corridor.

Hydraulics:

It is assumed there are 12 culverts to be analyzed along the corridor, four greater than 36-inches and eight less than 36-inches in diameter. A hydraulics design will be provided for structures exceeding 36-inches in diameter and submitted to INDOT Hydraulics for review. The hydraulics report and memo shall be in accordance with Chapter 14 of the IDM.

Maintenance of Traffic:

Resurfacing and patching is anticipated to take place under flagging operations. Short term closures will be utilized for culvert replacements.

Scope Description

The scope of this project includes services to deliver contract documents for the I-64 small structure replacement in accordance with IDM 14-2.01 for 3R Projects, Freeways.

The Consultant will provide services as described in Tasks 1 – 10:

Task 1	Project Management and Coordination
Task 2	Topographic Survey Data Collection
Task 3	Environmental Services
Task 4	Road Design and Plan Development
Task 5	Hydraulic Analysis and Report
Task 6	Geotechnical Investigation and Report
Task 7	Pavement Design
Task 8	Utility Coordination
Task 9	Construction Stormwater General Permit
Task 10	Right-of-Way Engineering
Task 11	Construction Phase Services

Services to be provided by INDOT:

- Railroad Coordination and Certification
- R/W Appraisal Services
- Land Acquisition
- Traffic Data Collection and Forecasting
- FWD Testing of Pavement

Services not required:

- Abbreviated Engineer's Report (Pavement Scoping Application Report to be utilized)

- Underdrain Design
- Bridge Design
- Geotechnical Engineering Services (cores are included in the supporting documents)
- Traffic Design and Production (no signing, lighting, or signals)
- Karst Survey and Investigation
- Section 106
- Section 4(f) or Section 6(f)
- Phase I Initial Site Assessment (ISA) or Phase II Site Investigation
- Public Involvement
- Subsurface Utility Engineering
- Traffic Management Plan
- Construction Inspections Services

Task 1 – Project Management and Coordination

Objective

The objective of this task is to manage the Project to successful Letting by managing each discipline, coordinating with INDOT departments, and regularly communicating with the INDOT Project Manager.

Results/Deliverables

The deliverables for this task are bi-weekly Progress Reports and monthly coordination calls with the INDOT Project Manager.

Coordination

Coordination is required with INDOT and discipline leads for the survey, environmental documentation and approval, permit determination, hydraulic report approval, utility coordination

and certification, right-of-way engineering, review of unique special provisions, plan review, and contract preparation document.

Activity

American Structurepoint, Inc. will perform the following activities:

- Attend INDOT Meetings
- Attend monthly coordination calls
- Project/Task Management
- Prepare and submit bi-weekly (mid and end of month) progress reports
- Coordinate with design team
- Coordinate with INDOT Office of Geotechnical Services, Office of Environmental Services, Utility/Railroad Section, Hydraulics Design Section, Real Estate Section, Highway Design Section, and specifications engineer

Assumptions

- Project development will be 36 months (October 2022 to September 2025)
- Bi-weekly progress reports will be provided to INDOT and design team
- Project will be considered “non-significant”, TMP coordination efforts will not exceed what is required for the preparation of the transportation plan checklist
- Public involvement, including a public hearing, will not be required
- Contract bundling assumed with Des. 2100167 I-64 Small Structures and Drains Construction

Task 2 – Topographic Survey Data Collection**Objective**

The objective of this task is to obtain the planimetric and topographical survey data for the Project.

Results/Deliverables

The deliverables for this task include the following:

- Reference ties for control points and benchmarks
- Topographic DGN
- One Step Plat Under Right of Way Scope
- Survey field book and electronic files

Coordination

Coordination is required with utility companies within the project limits and with property owners along the survey limits.

Activity

The Consultant will perform the following activities:

- Survey the project location within the defined limits, as seen in Figure A and provide original field notes, field survey data collected via electronic media and master drawings in DGN/DWG format.
- Conduct ownership and deed of last record research for properties contiguous to the project limits for one step plat.
- Survey notice letters will be sent prior to commencing the field work.
- Coordinate with utility companies to locate and mark their facilities in field. Notify the utilities via the call before you dig notification system (Indiana 811). Notify other existing underground facilities not in the notification system, but believed to be within the project limits as evidenced by facilities found.
- Verify each utility has field located their facilities during the course of the design survey. The existing facilities located, at the time of the field survey, shall be incorporated into the design survey. Size, pipe material, invert and casting elevations, and pressure (where applicable) shall be shown on the design survey. Provide listing of utilities and information available for that utility including address, and telephone number.
- Establish Primary Horizontal Control within the project limits such that the survey base line(s) can be re-established during construction. Control will be based on the Indiana Geospatial Coordinate System (Perry INGCS)
- Locate NGS, IDNR, USGS or INDOT benchmarks within the project vicinity. If no such benchmark exists, then a TBM will be established using (INGCS Perry) validation point.
- Perform design survey in sufficient detail to obtain topographic data, utilities, buildings, walls, walks, signs, vaults, and natural and man-made features, as evidenced by facilities at the ground surface and marks by others, necessary for development of project plans.
- Submit electronic files including the following:
 - Finished plan view of topographic survey in Microstation/DWG
 - DTM used to create contours
 - Survey alignment data
 - Electronic points files in .txt coordinate format
- The signature, seal, and registration number of the land surveyor, registered in the State of Indiana, who was in responsible charge of the survey, shall be affixed to the survey book submitted.

Assumptions

- The project area to be field surveyed is as follows:

- 12 pipe locations include CLV I 64 – 66.140, CLV I 64 – 66.340, CLV I 64 65.520, CLV I 64 67.140, CLV I 64 67.230, CLV I 64 70.230, CLV I 64 70.460, CLV I 64 71.020, CLV I 64 71.280, CLV I 64 71.620, CLV I 64 71.770
- Survey will extend 100' out from each end of pipe and encompass the entire length of pipe. Survey width will extend 150' each way of trunkline creating a 300' wide footprint.

Task 3 – Environmental Services

Objective

The objective of this task is to perform environmental analysis and develop the appropriate level of Categorical Exclusion for the project. The work will be accomplished following appropriate INDOT and Federal Highway Administration regulations and guidance documents.

Results/Deliverables

The deliverables include a completed Categorical Exclusion Level 3 (CE-3) environmental document and supporting documents in accordance with the INDOT Procedural Manual for Preparing Environmental Documents and the Categorical Exclusion Manual.

Coordination

Coordination will be required with INDOT, the project team, and appropriate resource agencies.

Activity

Activities are as follows:

- Coordinate with the Design Team and INDOT
- Deliverable Tracking and Management
- Prepare Purpose and Need Statement
- Prepare Red Flag Investigation (RFI) and Virtual File Cabinet (VFC) search.
- Prepare and Distribute Early Coordination Letters (ECL).
- Complete a general site visit and conduct water resources investigation and bat habitat assessment.
- Prepare Waters of the U.S. Determination Report to document the findings of the site visit
- Complete Section 7 Coordination-Range wide Programmatic Informal Consultation (RPIC)
- Prepare and submit Section 106 Minor Projects Programmatic Agreement (MPPA) Submittal for MPPA Category A-3 including evaluation of above ground cultural resources.
- Prepare and submit CE-3, including data collection, and development of the preferred alternative. Includes up to two resubmittals.
- Attend Preliminary and Final Field Check Meetings.
- Complete the Environmental Consultation Form in support of the Stage 3 Plans and Final Tracings.
- Prepare project commitment database spreadsheet and assist in resolution of commitments.

Assumptions

- Information for project purpose and need is provided in the Pavement Scoping Application Report and the Geotechnical Investigation Report. No additional analysis will be required to prepare purpose and need.
- This project should qualify under CE Level 3 due to impacts to wetlands or waterways greater than 0.1 acre but less than 1.0 acre and/or potential tree clearing.
- Tree clearing greater than 100 feet from the edge of pavement may be required. This tree clearing will result in a “may affect, likely to adversely affect” finding for the Indiana Bat and Northern long-eared bat and require a CE Level 3.
- If endangered species are found within the project limits, significant R/W acquisition is necessary, or significant stream disturbance is necessary, the level of NEPA document may become a higher level CE.
- The RFI will include review of up to four sites on the IDEM VFC.
- No on-site testing or subsurface investigation for hazardous materials or petroleum contaminated waste is included.

- The waters report will include no more than 30 streams and unnamed tributaries and 10 wetlands within the investigated area. The investigated area will include proposed areas for ditch clearing and culvert replacement. Delineation of the entire right-of-way is not anticipated. Culvert inspection forms are required for every culvert 12 inches in diameter or greater with the project limits.
- The Migratory Bird RSP will address any migratory bird restrictions identified during the environmental process. Therefore, no additional work will be required if migratory birds are encountered.
- There will be no disproportionate impacts to Environmental Justice populations of concern.
- The area will be reviewed for potential karst features by HNTB, but it is assumed that a formal karst analysis/report will not be required.
- No sole source aquifer, Section 4(f), Section 6(f), hazardous materials, air quality analysis, noise analysis or species-specific endangered species studies or consultation are required. If required these will be additional services.
- This project will qualify for the Section 106 Minor Projects Programmatic Agreement and all work will occur within previously disturbed soils. No archaeological investigation will be required. The full Section 106 process will not be required and review of the project area by a Qualified Professional Historian will be required.
- No public involvement will be required.

Task 4 – Road Design and Plan Development

Objective

The objective of this task is to develop the I-64 HMA Overlay contract documents in accordance with IDM Section 14-2.01 for 3R Projects, Freeways.

Results/Deliverables

The deliverables are the small structure plans and contract documents in accordance with the IDM Section 14-2.01 for 3R Projects, Freeways, and include the following:

- Initial Site Visit
- Stage 1 Plans
- Preliminary Field Check Plans
- Preliminary Right-of-Way Plans
- Stage 2 Plans
- Final Right-of-Way Plans
- Final Field Check Plans
- Stage 3 Plans
- Final Tracings Plans

Activity

Activities are as follows:

- Prepare and submit Stage 1 Documents
- Attend Preliminary Field Check and distribute minutes
- Prepare and submit Preliminary Right-of-Way Plans
- Prepare and submit Stage 2 Documents
- Prepare and submit Final Right-of-Way Plans
- Attend Final Field Check and distribute minutes
- Prepare and submit Stage 3 Documents
- Prepare and submit Final Tracings Documents

Assumptions

- The design shall follow criteria outlined in Figure 54-2A, Geometric Design Criteria for Freeway
- Evaluation of Level One and Level Two criteria will be required within the limits of the culvert replacement. No Design Exceptions are anticipated
- No geometric or pavement width changes are anticipated
- No horizontal or vertical alignment changes are anticipated
- All pavement markings and raised pavement markers are to be replaced where applicable. Pavement marking tables to be provided.
- Underdrain design is not required
- Bridge design is not required
- The Pavement Scoping Application Report shall be utilized as the Abbreviated Engineer's Report
- Assume 12 culverts to be analyzed along the corridor, four greater than 36-inches and eight less than 36-inches in diameter.
- Ditching corrections (approximately 650 LFT) and shoulder clipping (approximately 7000 LFT) anticipated along corridor
- Existing guardrail shall remain "in-place", guardrail replacement and roadside safety design will not be required
- IHCP exception will not be required
- The Traffic Control Plan Checklist will be the extent required for a Transportation Management Plan
- Plan development will utilize full-size plan sheets

- Aerial imagery assumed in plan sheets
- Maintenance of traffic plans to be included
- Lead bundling coordination required with Des. 2100167 I-64 Small Structures and Drains Construction
- Temporary erosion control plans, details of ditch correction, and culvert replacement plan sheets to be provided
- Two parcels assumed for right of way plans
- Travel will be limited to four visits to the project site or district office

Task 5 – Hydraulic Analysis and Report**Objective**

The objective of this task is to perform hydrologic and hydraulic analysis to support the replacement of up to four (4) large culverts (48" or larger) and eight (8) small culverts (smaller than 48").

Results / Deliverables

One Hydraulic Analysis Report and Memo will be prepared for each of up to twelve (12) culvert analyses.

Coordination

Coordination is required with various departments within INDOT for design and scope review.

Activity

The Consultant will develop the Project in accordance with the INDOT Project Development Process. The Consultant will develop the Hydraulic Analysis in accordance with IDM Ch 202 and 203. The consultant will make up to one additional field visit to verify drainage patterns and features. Activities are as follows:

- Obtain existing information
- Attend coordination meetings
- Develop hydrologic parameters in accordance with the Indiana Design Manual for up to 3 sites
- Analyze culverts in accordance with the Indiana Design Manual for up to 3 sites
- Prepare and submit hydraulic reports and hydraulic memos in accordance with the Indiana Design Manual

Assumptions

The following items are specifically not included in the scope:

- A Construction in Floodway permit will not be required
- No impact is anticipated to county regulated drains
- Additional required permits will be obtained by others
- Project impact reviews and/or design requested by agency stakeholders due to planned off-site improvements or maintenance areas are not included

Task 6 – Geotechnical Investigation and Report

See attached scope from Resource International, Inc (DBE)

Task 7 – Pavement Design and Report

Objective

The objective of this task is to develop Pavement Design recommendations for a preventive maintenance overlay of I-64 between 3.21 miles east of SR 162 to 0.26 miles west of SR 145 [RP 65+92 and RP 71+08] in Dubois, Perry, and Spencer Counties, in the Vincennes District.

Results/Deliverables

The deliverables will consist of a pavement design report for a preventive maintenance overlay with supplemental pavement patching tables.

Coordination

Coordination is required with INDOT Central Office Pavement Design and the District Pavement Engineer.

Activity

The consultant will develop the Project in accordance with Part 6 of the Indiana Design Manual.

Activities are as follows:

- Coordinate with project designer
- Site visit to document existing conditions of the pavement
- Prepare and submit Draft Pavement Design Report with Appendices
- Prepare and submit Final Pavement Design Report with Appendices
- Site visit to confirm conditions of the pavement and patching information prior to RFC
- Coordinate with INDOT Office of Geotechnical Services and Pavement Design Section, geotechnical engineers, and specifications engineers as required

Assumptions

- Shoulder strengthening for maintenance of traffic will be analyzed to determine temporary pavement needs
 - Up to 2 design options will be necessary to analyze existing conditions and develop appropriate treatments
 - One assessment of full depth shoulder replacement due to existing composition
 - One assessment of surface replacement on existing composition to provide rideable shoulders for lane shifting operations
- Two pavement assessments will be completed
 - One assessment for initial site visit as part of Pavement Design Report developments
 - One assessment prior to RFC to verify conditions
- Up to 2 designs will be produced for pavement patching
- One pavement patching table including partial- and full-depth repairs will be completed for inclusion in construction plans
- Up to 1 design recommendation will be required for a preventive maintenance overlay of I-64 including associated MEPDGs
- Up to 1 design recommendation will be required for full depth pavement replacement of I-64 as it relates to hydraulic structure replacement including associated MEPDGs
- Geotechnical services will be provided by INDOT or others including a Soils Report
- No additional pavement cores will be required
- FWD testing will be completed by INDOT and provided prior to completion of Draft Pavement Design Report
- AASHTOWare Pavement ME Design files for Version 2.3.1 will be provided from INDOT's Office of Pavement Engineering if required

- Coordination with INDOT Pavement Design will occur prior to submitting a pavement design recommendation outside of the original anticipated scope

Task 8 – Utility Coordination

Objective

The objective of this task is to complete utility coordination activities in accordance with the INDOT Utility Accommodation Policy, INDOT Design Manual Chapter 104 and 105 IAC 13.

Results / Deliverables

The deliverables may include the following items, dependent on utility's reimbursable status:

- Send Initial Notice to utilities and establish primary contacts for the utility
- Work Plan(s)
- Relocation Plan(s)
- Approval of design changes from Utility Designated Contact (if existing facility can be avoided).
- Transmittal letters in accordance with the INDOT Utility Coordination process
- Utility Certification document and RSP 107-R-169

Activity

- Coordinate with INDOT District Utility Oversight Agent throughout the utility coordination process. This will include coordination with District Utility Oversight Agent to support SUE work as determined after Stage 1 plan submittal
- Transmit utility verification correspondence to utilities located within the project limits
- Perform conflict analysis with existing facilities versus proposed design, and determine mitigation strategies, if possible
- Maintain contact with Utility Designated Contact
- Perform the following activities in the event of an unavoidable conflict:
 - Transmit work plan documentation and review work plan
 - Prepare all transmittal letters for work plan process, and sign letters that are required to be signed by the utility coordinator
- Remain informed of utility coordination progress throughout the construction process and remain available to address questions that arise
- Add available SUE data to Plans, Profiles and Cross Section as appropriate
- Complete utility certification for project
- Track Utility Coordination process in UMS

Assumptions

- There will be up to four (4) utility companies with which to coordinate five (5) workplans
- Full Utility Certification will be required deliverable
- There will be no utilities requesting relocation.
- Utility relocations are not reimbursable
- No underground water or sanitary sewer are in interstate R/W
- Utility coordinator will attend the preliminary field check, final field check, and one additional on-site meeting with utilities
- Utility design is not included
- SUE field work is not included. SUE Data sheet to be provided by others

Task 9 – Construction Stormwater General Permit

Objective

The objective of this task is to prepare the appropriate permit applications for the projects including Section 401 Water Quality Certification to the Indiana Department of Environmental Management (IDEM), Section 404 Department of Army (DA) Regional General Permit to the United States Army Corps of Engineers (USACE) and coverage under the Construction Stormwater General Permit (CSGP). The work will be accomplished following appropriate INDOT, IDEM and USACE regulations and guidance documents, as well as pertinent and applicable state requirements.

Results/Deliverables

Deliverables include the following:

- One combined application, including supporting documents, for the Section 404/401 permits.
- One IDEM CSGP and supporting documentation.

Activity

The Consultant will develop the permit application for the Project in accordance with the INDOT Project Development Process and Waterway Permit Manual. Activities are as follows:

- Collect available resource information about the project and project area, specifically related to the stormwater and drainage.
- Perform a field visit of the project site to verify the results of stormwater/drainage data collection efforts. This will be completed in conjunction with the site visit for the environmental documentation.
- Prepare permit determination form for INDOT EWPO.
- If required, prepare the Section 401 Water Quality Certification and Section 404 DA Permit Application and associated attachments for submittal to INDOT for review. Upon revision of the application, INDOT will submit it to IDEM and the USACE for approval.
- Prepare the IDEM CSGP Application and associated attachments for submittal to INDOT for review. Upon revision of the application, INDOT will submit it to IDEM for approval.

Assumptions

- All permit applications will be prepared in accordance with the INDOT Waterway Permitting Manual.
- The combined projects impacts will meet the requirements of the Section 404 Regional General Permit and Section 401 Water Quality Certification. An individual Section 404 DA Permit will not be required.
- A Construction in a Floodway permit from IDNR will not be required.
- This project will disturb more than 1 acre and coverage under the Indiana CSGP will be required.
- Stream or wetland mitigation will not be required.

Items Specifically Not Included in Scope

The following items are specifically not included in the scope:

- Construction in a Floodway permitting
- Wetland or stream mitigation

Task 10 – Right-of-Way Engineering

Objective

The objective of this task is to develop the Location Control Route Survey Plat, right-of-way engineering parcel packets and final right-of-way plans for the project.

Results/Deliverables

The deliverables will be developed in accordance with the INDOT Right-of-way Engineering Manual and include the following:

- Location Control Route Survey Plat
- Title & Encumbrance Reports
- Right-of-way Engineering Parcel packets
- Final Right-of-way Plans
- Right-of-way staking

Coordination

Coordination is required with INDOT Vincennes District Real Estate staff

Activity

Activities include the following:

- Review Title & Encumbrance Reports
- Review property lines
- Review preliminary right-of-way plans
- Develop Right-of-way Engineering Parcel packets
- Develop Final Right-of-way Plans
- Stake proposed right-of-way to be acquired
- Upload right of way documents to ERMS and update LRS

Assumptions

- Maximum of 2 parcels required for this project
- No additional field work other than right-of-way staking (one trip)

Task 11 – Construction Design Phase Services

Objective

The objective of this task is to provide construction phase services for the Project.

Activity

Activity will include the following:

- Review the contract bid package prior to letting and coordinate revisions with INDOT
- Respond to reasonable inquiries through the official INDOT process concerning accuracy and intent of plans during advertisement and bidding
- Attend preconstruction conference
- Respond to reasonable inquiries through the official INDOT process concerning accuracy and intent of plans during construction
- Review culvert shop drawings
- Attend (4) contractor requested site visits or progress meetings during construction

Assumptions

- Shop drawing reviews beyond the culvert are not required or included in the scope of the Project
- Travel will be limited to five visits to the project site or district office, consisting of 1 team member

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APPENDIX "B"

Information and Services to be furnished by INDOT, if available:

1. Available data from the transportation planning process
2. All written views that are received by INDOT pertinent to the environmental studies.
3. Access to INDOT records regarding plans, field notes, project correspondence, and right-of-way grants and deeds located within the project area
4. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
5. Standard specifications and standard drawings applicable to the project
6. State of Indiana forms and manuals required for the project
7. Any necessary permit forms and permit processing required by other State and/or Federal agencies (such as US Army Corps of Engineers, US Coast Guard, Indiana Department of Environmental Management and/or Indiana Department of Natural Resources)
8. Land Acquisition Services

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APPENDIX "C"

Schedule:

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

All work by the CONSULTANT under this Contract shall be completed and delivered to INDOT for review and approval within the following approximate time periods. Variations from this schedule may be agreed upon by the INDOT project manager and the CONSULTANT.

Field Survey	10/29/2022
Geotechnical Report	11/28/2022
Stage 1 Plans	06/11/2023
Preliminary Field Check Meeting	08/04/2023
Preliminary Right of Way Plans	11/23/2023
Stage 2 Plans	11/23/2023
Environmental Document Approval	05/06/2024
Right of Way Engineering	05/06/2024
Permit Approval	01/15/2025
Stage 3 Plans	01/31/2025
Final Field Check	03/28/2025
Right of Way Clear	05/06/2025
Final Tracings	06/02/2025
Ready For Contracts	07/02/2025

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APPENDIX "D"

1. The CONSULTANT shall receive as payment for the work performed under this Contract the total amount not to exceed \$904,500.00 (Section 2 - \$674,600.00; Section 3 - \$187,500.00; Section 4 - \$42,400.00).
2. The CONSULTANT will be paid for the following services described in Appendix "A" on a lump sum basis. Payment will be in accordance with the following fee schedule:

Environmental Services	
Environmental Documentation	\$ 61,400.00
Topographic Survey Data Collection	
Topographical Survey	\$100,000.00
Road Design and Plan Development	
Hydraulic Analysis	\$ 99,200.00
Pavement Design	\$ 33,500.00
Project Management	\$ 41,800.00
Road Design and Plans	\$279,700.00
Utility Coordination Services	
Utility Coordination	\$ 16,000.00
Construction Stormwater General Permit	\$ 13,500.00
Geotechnical Engineering	\$ 29,500.00

For each lump sum item, the CONSULTANT will be paid based on the percentage of work performed. The CONSULTANT shall show computation of the completion percentage of each item. If a portion of work is completed for an item, then the CONSULTANT shall bill only for that work completed.

3. The CONSULTANT will be paid for the following services described in Appendix "A" on a unit price basis: Geotechnical Services, not to exceed \$187,500.00. Payment will be in accordance with the following fee schedules, including those distributed with the Notice to Proceed communication. (The quantities of units are an estimate.)
4. The CONSULTANT will be paid for the following services described in Appendix "A" on a negotiated labor rate multiplier basis: Right of Way Plan Development \$32,400.00 and Construction Phase Services \$10,000.00. Payment will be calculated using the actual hours of work performed by essential personnel exclusively working on this Contract at the direct salary and wages of each employee multiplied by the labor rate multiplier of 3.09 for American Structurepoint, Inc. plus direct non-salary costs as approved by INDOT. Each employee's reimbursable direct charge rate will be limited to the INDOT maximum allowable direct labor rate for the applicable period of services. The maximum allowable rate is available on the INDOT website. The CONSULTANT will be reimbursed the direct non-salary costs (the actual costs of such out-of-pocket expenses directly attributable to this Contract are items such as fares, subsistence, mileage, equipment rentals, reproductions,

approved sub-consultant fees, etc.) as approved by INDOT. The direct non-salary costs for travel reimbursement shall not exceed the limitations on travel expenses set out in the current State of Indiana policy on travel reimbursement.

5. The CONSULTANT may submit one invoice per calendar month for work covered under this Contract.
6. For Labor Rate Multiplier, Negotiated Hourly Rate and Cost Plus Fixed Fee tasks, the CONSULTANT shall furnish a copy of records showing the individuals who worked on this Contract, classification, the number of hours worked, and hourly rate along with documentation of direct non-salary costs.
7. If a DBE goal is established for this contract, separate DBE costs shall be summarized on each invoice including a cumulative total to show DBE goal attainment.
8. CONSULTANT shall submit an invoice for payment within 120 days after the earlier of (a) the date that CONSULTANT's right to payment for a work item has accrued or (b) the last day of the term of this contract. The date any invoice is due to be presented to INDOT is referred to herein as the "Invoice Due Date". CONSULTANT acknowledges and agrees that INDOT is a recipient of federal funds and INDOT may intend to use federal funds to pay all or a part of the sums owed to CONSULTANT pursuant to this contract. Accordingly, in the event that CONSULTANT'S invoice is not timely delivered and federal funds that were otherwise available to pay CONSULTANT are not available to pay CONSULTANT for any reason, then CONSULTANT agrees that INDOT shall have no obligation to pay sums due by INDOT hereunder to the extent previously available federal funds are not available to pay such sums ("Unavailable Federal Funds"). In the event that the compensation to CONSULTANT is intended by INDOT on the date hereof to be payable solely with state funds, then the amount of Unavailable Federal Funds shall be deemed to be \$0.00.

Additionally, in the event that CONSULTANT does not submit an invoice by the Invoice Date, then CONSULTANT shall additionally pay INDOT an administrative fee equal to 20% of the value of the invoice, less the amount of Unavailable Federal Funds (the "Administrative Fee"). The Administrative Fee is intended to offset certain costs that INDOT incurs as a result of late delivery of an invoice, which costs are difficult and impractical to ascertain.
9. Overtime premium wages will not be allowed unless approved by INDOT. If overtime premium wages are approved, they will only be paid for those employees allowed to receive overtime premium according to the CONSULTANT's standard policy. Neither overhead additive nor negotiated labor rate multiplier will be applied to the overtime premium portion of direct salary and wages. The CONSULTANT shall not bill for overtime premium for any individual until forty hours have been worked on this Contract for the week by that individual.
10. The actual amount payable shall be determined in accordance with a final audit by INDOT's Division of Cost Accounting and Audits.

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APPENDIX "E"

SUBCONSULTANT ACKNOWLEDGEMENT

RECITALS

WHEREAS, the undersigned subconsultant ("Subconsultant") desires to provide goods and/or services in connection with that certain consulting contract by and between **HNTB Indiana, Inc.** and the Indiana Department of Transportation (INDOT), Contract number **00000000000000000000000063978** ("Contract"), and

WHEREAS, INDOT consents to the services of the Subconsultant according to the laws of the State of Indiana and the terms of this Subconsultant Acknowledgement (Acknowledgement),

THEREFORE, in consideration of the mutual covenants contained herein, the Subconsultant for itself and on behalf of its successors and assigns (if any) and INDOT agree as follows:

1. With respect to any liability and/or indemnification issues, this Acknowledgment is subject to IC 8-23-2-12.5.
2. Without limiting any rights or remedies based in agency, law, equity or otherwise that INDOT may have with respect to the Subconsultant under the Contract, the Subconsultant specifically agrees that Paragraphs #19 (Governing Laws); #23 (Insurance -- Liability for Damages) and #21 (Indemnification) of the Contract shall apply to Subconsultant as though Subconsultant had been a party to and duly executed the Contract.
3. INDOT and Subconsultant agree that execution of this Acknowledgement is an inducement for INDOT to permit Subconsultant to perform services under the Contract and INDOT is entitled to and does, in fact, rely upon the terms and conditions contained herein.

For SUBCONSULTANT:

For INDOT:

Subconsultant Firm Name (Please Print)

Name/Title

Name/Title

Date

Date

APPENDIX "F"

INDIANA DEPARTMENT OF TRANSPORTATION
CONSULTANT CONFLICT OF INTEREST POLICY

The Indiana Department of Transportation (INDOT) Consultant Conflict of Interest Policy (the "Policy") is as follows:

1. Consultants and Subconsultants shall provide independent and uncompromised judgment, counsel, work product and public representation, with respect to every contract with INDOT.
2. Consultants and Subconsultants shall support the policies and practices of the State of Indiana.
3. Any conduct or set of facts that could or does compromise or limit the duties in Paragraphs (1) and (2) above shall be considered a Conflict of Interest ("Conflict").
4. The consultant (and any Subconsultant), not INDOT, shall reasonably and in good faith anticipate, identify, and disclose to INDOT any actual or potential Conflict.
5. In addition to complying with the requirements of this Policy, the consultant or subconsultant shall also comply with any other professional responsibilities, ethics code of conduct or law applicable to the consultant or subconsultant.
6. The consultant shall include a term requiring compliance with this Policy in any agreement or arrangement with any subconsultant in furtherance of any INDOT contract.
7. The Consultant and any Subconsultant shall notify INDOT of any Conflict or potential Conflict according to this Policy in writing (by emailing INDOT at contractsrfp@indot.in.gov), fully explaining the Conflict or potential Conflict and providing any suggestions or protocol to remedy the Conflict prior to (as applicable):
 - a. The completion of any INDOT Consultant selection process;
 - b. Any consultant engaging any Subconsultant on an INDOT contract; or
 - c. The consultant or Subconsultant accepting any work from an entity other than INDOT.
8. INDOT's Consultant Selection Committee will consider the consultant's or Subconsultant's notification of a potential Conflict with consultation from the Project Manager and agency Ethics Officer. The Committee will make a recommendation to the Commissioner on whether to object to the Conflict, waive the potential Conflict or require the Consultant or Subconsultant to remedy the Conflict. The Committee will include an explanation on why a waiver is appropriate for all recommendations to waive a Conflict.
9. After receiving the recommendation of the Committee, INDOT's Commissioner or the Commissioner's designee, in his or her sole discretion and with the exercise of reasonableness and good faith, may object to the Conflict, waive the Conflict, or require the Consultant (or Subconsultant) to remedy the Conflict to INDOT's satisfaction as a condition of INDOT awarding or continuing any contract or awarding any amendment to, extension or supplement of or additional work under any contract.

10. INDOT shall issue its decision with respect to any notification provided under Paragraph (7) above, within 10 (ten) business days of receipt of said notification.

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